

# APPENDIX

## TO THE HISTORY OF THE SIXTEENTH CONGRESS.

[SECOND SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

### SUPPRESSION OF THE SLAVE TRADE.

[Communicated to the House, January 5, 1821.]

I communicate to the House of Representatives a report from the Secretary of State, which, with the papers accompanying it, contains all the information in possession of the Executive, requested by a resolution of the House of the 4th of December, on the subject of the African slave trade.

JAMES MONROE.

WASHINGTON, Jan. 4, 1821.

DEPARTMENT OF STATE, Jan. 4, 1821.

The Secretary of State, to whom has been referred the resolution of the House of Representatives, of the 4th ultimo, requesting the communication to that House of any correspondence that the President does not deem it inexpedient to disclose, which may have existed between the Executive of the United States and the Government of any of the maritime Powers of Europe, in relation to the African slave trade, has the honor of submitting copies of the papers requested by the resolution. With the exception of a note from the late Spanish Minister, Onís, communicating a copy of the treaty between Spain and Great Britain on this subject, the only Government of Europe with whom there has been such correspondence is that of Great Britain; and these papers contain all that has passed between them, on the subject, in writing. Since the arrival of Mr. Canning, various informal conferences between him and the Secretary of State have been held, in which the proposals on the part of Great Britain have been fully discussed, without effecting a removal of the objections upon which the President had, in the first instance, found himself under the necessity of declining them. They have not yet terminated, nor have any written communications passed on the subject, with the exception of the note from Mr. Canning and the answer to it, herewith submitted, both of a date subsequent to that of the resolution of the House.

JOHN QUINCY ADAMS.

16th CON. 2d Sess.—42

*Don Louis de Onís to the Secretary of State.*

WASHINGTON, May 14, 1818.

SIR: The introduction of negro slaves into America was one of the earliest measures adopted by the august ancestors of the King my master, for the improvement and prosperity of those vast dominions, very shortly after their discovery. The total inaptitude of the Indians to various useful, but painful labors, the result of their ignorance of all the conveniences of life, and the imperfect progress in civil society, made it necessary to have recourse to strong and active laborers for breaking up and cultivating the earth. With the double view of stimulating them to active exertion, and of promoting the population of those countries, a measure was resorted to by Spain, which, although repugnant to her feelings, is not to be considered as having originated the system of slavery, but as having materially alleviated the evils of that which already existed, in consequence of a barbarous practice of the Africans, upon saving the lives of a considerable portion of the captives in war, whom they formerly put to death. By the introduction of this system, the negroes, far from suffering additional evils, or being subjected, while in a state of slavery, to a more painful life than when possessed of freedom in their own country, obtained the inestimable advantage of the knowledge of the true God, and of all the benefits attendant on civilization.

The benevolent feelings of the sovereigns of Spain did not, however, at any time permit their subjects to carry on this trade, but by special license; and in the years 1789, 1798, and on the 22d of April, 1804, certain limited periods were fixed for the importation of slaves. Although the last term had not expired when His Majesty our lord Don Ferdinand the Seventh was restored to the throne, of which a perfidious usurper had attempted to deprive him. His Majesty, on resuming the reins of Government, soon perceived that those remote countries had become a prey to civil feuds, and, in reflecting on the most effectual means of restoring order, and affording them all the encouragement of which they are susceptible,

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His Majesty discovered that the numbers of the native and free negroes had prodigiously increased under the mild regimen of the Government, and the humane treatment of the Spanish slave owners; that the white population had also greatly increased; that the climate is not so noxious to them as it was before the lands were cleared; and, finally, that the advantages resulting to the inhabitants of Africa, in being transported to cultivated countries, are no longer so decided and exclusive, since England and the United States have engaged in the noble undertaking of civilizing them in their native country.

All these considerations combining with the desire entertained by His Majesty of co-operating with the Powers of Europe, in putting an end to this traffic, which, if indefinitely continued, might involve them all in the most serious evils, have determined His Majesty to conclude a treaty with the King of the United Kingdom of Great Britain and Ireland, by which the abolition of the slave trade is stipulated and agreed on, under certain regulations, and I have received his commands to deliver to the President a copy of the same, His Majesty feeling confident that a measure so completely in harmony with the sentiments of this Government, and of all the inhabitants of this Republic, cannot fail to be agreeable to him.

In the discharge of this satisfactory duty, I now transmit you the aforesaid copy of the treaty, which I request you will be pleased to lay before the President, and I have the honor to renew the assurances of my distinguished respect.

God preserve you many years.

LUIS DE ONIS.

*Extract of a letter from Mr. Rush to the Secretary of State, dated Feb. 13, 1818.*

"You will probably have perceived, by the proceedings in the House of Commons, that treaties have been formed between this Government and both Spain and Portugal, securing, as far as may be done by treaty, the final abolition, after a specified time, not very remote, of the slave trade. Thus, is a last hand to be put to the work of America, whose legislators led the way, with Europe against them, in this transcendent moral reform. But it is a triumph which as little the Courts as the public of Europe seem willing in any shape to acknowledge. The palm is claimed by others. America is even placed in fault. In his speech on the Spanish treaty, delivered in the House of Commons on the 8th instant, Lord Castlereagh observed, that it was in vain for Britain alone to shut the door of her colonies against the slave trade; for that, unless there was a concert of exclusion, the other islands of the West Indies, 'and the southern provinces of the United States, would become the asylum and depot of it.' I gladly caught the opportunity of this accidental meeting [with Lord Castlereagh] to say what could not have been otherwise than acceptable to the zeal for abolition. I stated the nature of our laws. I said, I felt sure that he would hear from me with pleasure, that it was upwards of nine years since

the traffic had been abolished throughout the Union; and that so far had our acts of Congress carried the prohibition, that to import even a single slave into any of the States, had, during the same period, been denounced as an offence, and subjected to unusually rigorous penalties of fine and imprisonment. His Lordship admitted the prohibitions, but intimated fears lest we could not enforce them, alluding to the recent state of things at Amelia. In the end, he invited me to look into all their conventions with other Powers upon this subject, with a view to future conversation, adding that he was well disposed himself to a proper concert of action between our two Governments for the more effectual extirpation of the traffic.

"I shall look into the conventions accordingly, and wait the renewal of the topic. Whether policy would dictate any concert, is a point upon which, not being instructed, I will not presume to give any opinion. But I hope I do not misjudge in thinking that, for the present, I am merely bound to listen to, without seeking any further conversation. I will take care punctually to communicate, for the President's information, whatever may be said to me, in like manner as my duty devolves it upon me to transmit this first sentiment, so cursorily thrown out by Lord Castlereagh. It will be understood, that, in adverting to our municipal prohibitions, I intended no advance to the point of national co-operation. It was barely for the sake of an incidental and gratuitous vindication, after public remark, which, to say no more, was susceptible of unjust interpretation. On his allusion to Amelia Island, I reminded him that it was the very anxiety to prevent the illicit introduction of slaves that had formed a ruling motive with the President for breaking up, with the public force itself, the establishment at that place."

*Extract of a letter from Mr. Rush to the Secretary of State.*

APRIL 15, 1818.

"He (Lord Castlereagh) next spoke of the slave trade. The Government of Great Britain felt, he said, an increasing desire that the Government of the United States should lend itself to the measures of regulation going forward in Europe for its complete extirpation. These measures mean, in effect, a reciprocal submission to the right of search. He explained by saying, that only to a limited number of the armed vessels of each of the maritime States would a power to search be deputed, while the exercise of it would be strictly forbidden to all others. It was contemplated, he continued, to form, out of an association of these armed vessels, a species of naval police, to be stationed chiefly in the African seas, and from whose harmonious and co-operating efforts the best results were anticipated. He added, that no peculiar structure, or previous appearances in the vessel searched, no presence of irons, or other presumptions of criminal intention; nothing but the actual finding of slaves on board was ever to authorize a seizure or detention. He said that they had lately pressed France upon the subject, and

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that there was no doubt of her eventual agreement. The recent vote, in both her Chambers, on the broad principle of abolition, he regarded as a full pledge of her ulterior steps.

"I replied, that I was sure that the President would listen, with an ear the most liberal, to whatever distinct proposals were made, more especially as the United States had been long awake, as well to the moral guilt as to the political and social evils of the traffic, and had, as was known, aimed against it the denunciations of their own laws. The distinct propositions, his Lordship gave me reason to think, would be made known before long, through Mr. Bagot."

*Extract of a letter from Mr. Rush to Mr. Adams, dated London, June 24, 1818.*

"In two former despatches I have mentioned what Lord Castlereagh has said to me relative to the slave trade. In my interview with him on the eleventh of this month, he spoke of it in a manner more formal and definitive."

"He first alluded to the late treaties concluded between Great Britain and several of the Powers of Europe upon this subject. Entering into conversation upon their particular nature and provisions, he said, that the period had arrived when it was the wish of the British Government to invite the Government of the United States to join in the measures which Europe was so generally adopting, for the more perfect abolition of this traffic; and that it was now his design to submit, through me, proposals to this effect. It will be perceived by my despatch, No. 14, [April 15, 1818.] that, at that period, it had been contemplated to make them through the channel of the English mission at Washington. What may have led to a change in this respect, his Lordship did not state, nor did I deem it material to inquire.

"It had occurred to him, he said, to make the proposals by sending me, accompanied by an official note, entire copies of all the treaties in question. They would best unfold the grounds and principles upon which a concert of action had already been settled by the States that were parties to them, and it was his intention to ask the accession of the United States upon grounds and principles that were similar. He added, that he would willingly receive my suggestions as to any other course that might strike me as better adapted to the object. I replied, that none appeared to me more eligible, and that whenever he would enclose me the treaties, I would lose no time in transmitting them, for the consideration of the President."

"It naturally occurred to me, during our conversation, that the detached and distant situation of the United States, if not other causes, might call for a modification in some parts of these instruments, admitting that the broad principle of concert met approbation. His Lordship upon this point was full in assurances, that the British Government would be happy to listen to whatever modifications the Government of the United States might think fit to propose. Its anxious and

only desire, he said, was, to see a convention formed that would prove free from all objection, and be conducive to the single and grand object to which both sides looked. He ended by expressing the belief which was felt, that the maritime co-operation of the United States would usefully contribute to the advancement of this great work of humanity."

"Nothing further passed necessary to the full understanding of the overture, beyond what the documents themselves and his Lordship's note, are calculated to afford. To these I have, therefore, the honor to refer, as disclosing, in the most authentic and detailed manner, the whole views of the British Government upon this interesting subject."

*Lord Castlereagh to Mr. Rush.*

FOREIGN OFFICE, June 20, 1818.

SIR: The distinguished share which the Government of the United States has, from the earliest period, borne in advancing the cause of abolition, makes the British Government desirous of submitting to their favorable consideration whatever may appear to them calculated to bring about the final accomplishment of this great work of humanity.

The laudable anxiety with which you personally interest yourself in whatever is passing upon this important subject, will have led you to perceive that, with the exception of the Crown of Portugal, all European States have now either actually prohibited the traffic in slaves to their subjects, or fixed an early period for its cessation, whilst Portugal has also renounced it to the north of the equator. From May, 1820, there will not be a flag which *can legally* cover this detested traffic to the north of the line, and there is reason to hope that the Portuguese may also, ere long, be prepared to abandon it to the south of the equator; but, so long as some effectual concert is not established amongst the principal maritime Powers, for preventing their respective flags from being made a covert for an illicit trade, there is too much reason to fear (whatever be the state of the law upon this subject) that the evil will continue to exist, and, in proportion as it assumes a contraband form, that it will be carried on under the most aggravating circumstances of cruelty and desolation.

It is from a deep conviction of this truth, founded upon experience, that the British Government, in all its negotiations upon this subject, has endeavored to combine a system of alliance for the suppression of this most abusive practice, with the engagements which it has succeeded in lately contracting with the Government of Spain and Portugal for the total or partial abolition of the slave trade. I have now the honor to enclose to you copies of the treaties which have been happily concluded with those Powers, together with the acts which have recently passed the Legislature, for carrying the same into execution.

I have also the satisfaction to transmit to you a copy of a treaty which has been recently concluded with the King of the Netherlands, for the like pur-

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pose, though at too late a period in the session to admit of its provisions receiving the sanction of Parliament. I am induced the more particularly to call your attention to this convention, as it contains provisions which are calculated to limit, in some respects, the power mutually conceded by the former treaties, in a manner which, without essentially weakening their force, renders them more acceptable to the contracting parties.

The intimate knowledge which you possess of this whole subject renders it unnecessary for me, in requesting you to bring those documents to the observation of your Government, to accompany them with any more detailed explanation. What I have earnestly to beg of you is, to bring them under the serious consideration of the President, intimating to him the strong wish of the British Government that the exertions of the two States may be combined upon a somewhat similar principle, in order to put down this great moral disobedience, wherever it may be committed, to the laws of both countries. I am confident this cannot effectually be done, except by mutually conceding to each other's ships of war a qualified right of search, with a power of detaining the vessels of either State, with slaves *actually on board*.

You will perceive in these conventions a studious, and, I trust, a successful attempt, to narrow and limit this power within the due bounds, and to guard it against perversion. If the American Government is disposed to enter into a similar concert, and can suggest any further regulations, the better to obviate abuse, this Government will be most ready to listen to any suggestion of this nature, their only object being to contribute, by every effort in their power, to put an end to this disgraceful traffic.

I have the honor to be, with great truth, sir, your most obedient humble servant,

CASTLEREAGH.

*Mr. Rush to Lord Castlereagh.*

LONDON, June 23, 1818.

MY LORD: I have been honored with your Lordship's note of the twentieth of this month, enclosing copies of treaties recently concluded between this Government and the Government of Portugal, Spain, and the Netherlands, respectively, in relation to the slave trade, and designed to draw the attention of the Government of the United States to this subject, with a view to its co-operation upon principles similar to those held out in these treaties, in measures that may tend to the more complete and universal abolition of the traffic.

The United States, from an early day of their history, have regarded with deep and uniform abhorrence the existence of a traffic attended by such complications of misery and guilt. Its transcendent evils roused, throughout all ranks, a corresponding zeal for their extirpation. One step followed another until humanity triumphed, and against its continuance, under any shape, by its own citizens, the most absolute prohibitions of their code have, for a period of more than ten years, been rigorously, and, it is hoped, beneficially

levelled. Your Lordship will pardon me this allusion to the earnest efforts of the United States to put down the traffic within their own limits, falling in, as it merely does, with the tribute which you have been pleased to pay to their early exertions in helping to dry up this prolific source of human woe.

Whether any causes may throw obstacles in the way of their uniting in that concert of external measures, in which Europe generally, and this nation in particular, are now so happily engaged, the more effectually to banish from the world this great enormity, I dare not, in the total absence of all instructions, presume to intimate, much less have I any opinion of my own to offer upon a subject so full of delicacy and interest. But it is still left to me to say, that I shall perform a duty peculiarly gratifying in transmitting, by the earliest opportunities, copies of your Lordship's note, with the documents which accompanied it, to my Government, and I sufficiently know the permanent sensibility which pervades all its councils upon this subject, to promise that the overture, which the former embraces, will receive, from the President, the full and anxious consideration due to its importance, and, above all, to the enlarged philanthropy on the part of this Government, by which it has been dictated.

I have the honor to be, with the highest consideration, your Lordship's obedient faithful servant,  
RICHARD RUSH.

*Extract of a letter from the Secretary of State to Messrs. Gallatin and Rush, dated Department of State, November 2, 1818.*

"SLAVE TRADE.

"The President desires that you would make known to the British Government, his sensibility to the friendly spirit of confidence with which the treaties lately contracted by Great Britain with Spain, Portugal, and the Netherlands, and the legislative measures of Parliament, founded upon them, have been communicated to this Government, and the invitation to the United States to join in the same or similar arrangements has been given. He wishes you also to give the strongest assurances that the solicitude of the United States for the accomplishment of the common object, the total and final abolition of that odious traffic, continues with all the earnestness which has so long and so steadily distinguished the course of their policy in relation to it. As an evidence of this earnestness, he requests you to communicate to them a copy of the act of Congress of the last session, in addition to the act of 1807, to prohibit the importation of slaves into the United States, (Acts of the last session, chapter 86, page 81,) and to declare the readiness of this Government, within their Constitutional powers, to adopt any further measures, which experience may prove to be necessary, for the purpose of attaining so desirable an end.

"But you will observe that, in examining the provisions of the treaties communicated by Lord Castlereagh, all their essential articles appear to



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be of a character not adapted to the institutions or to the circumstances of the United States.

"The power agreed to be reciprocally given to the officers of the ships of war of either party to enter, search, capture, and carry into port for adjudication, the merchant vessels of the other, however qualified and restricted, is most essentially connected with the institution by each treaty of two mixed courts, one of which to reside in the external or colonial possessions of each of the two parties, respectively. This part of the system is indispensable to give it that character of reciprocity, without which, the right granted to the armed ships of one nation to search the merchant vessels of another, would be rather a mark of vassalage than of independence. But, to this part of the system, the United States, having no colonies, either on the coast of Africa or in the West Indies, cannot give effect.

"You will add that, by the Constitution of the United States, it is provided, the judicial power of the United States shall be vested in a Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. It provides that the judges of these courts shall hold their offices during good behaviour; and that they shall be removable by impeachment and conviction of crimes or misdemeanors. There may be some doubt whether the power of the Government of the United States is competent to institute a court for the carrying into execution their penal statutes, beyond the territories of the United States, a court consisting partly of foreign judges, not amenable to impeachment for corruption, and deciding upon statutes of the United States without appeal.

"That the disposal of the negroes, found on board the slave-trading vessels, which might be condemned by the sentence of these mixed courts, cannot be carried into effect by the United States; for, if the slaves of a vessel condemned by the mixed court should be delivered over to the Government of the United States as freemen, they could not, but by their own consent, be employed as servants or free laborers. The condition of the blacks being, in this Union, regulated by the municipal laws of the separate States, the Government of the United States can neither guaranty their liberty in the States where they could only be received as slaves, nor control them in the States where they would be recognised as free.

"That the admission of a right in the officers of foreign ships of war to enter and search the vessels of the United States, in time of peace, under any circumstances whatever, would meet with universal repugnance in the public opinion of this country; that there would be no prospect of a ratification, by advice and consent of the Senate, to any stipulation of that nature; that the search by foreign officers, even in time of war, is so obnoxious to the feelings and recollections of this country, that nothing could reconcile them to the extension of it, however qualified or restricted, to a time of peace; and that it would be viewed in a still more aggravated light if, as in the treaty with the Netherlands, connected with a formal admis-

sion that even vessels under convoy of ships of war of their own nation, should be liable to search by the ships of war of another.

"You will therefore express the regret of the President that the stipulations in the treaty communicated by Lord Castlereagh, are of a character to which the peculiar situation and institutions of the United States do not permit them to accede. The Constitutional objection may be the more readily understood by the British Cabinet, if they are reminded that it was an obstacle proceeding from the same principle which prevented Great Britain from becoming, formally, a party to the Holy Alliance. Neither can they be at a loss to perceive the embarrassment under which we should be placed by receiving cargoes of African negroes, and be bound at once to guaranty their liberty, and to employ them as servants. Whether they will be as ready to enter into our feelings with regard to the search by foreign navy lieutenants, of vessels under convoy of our own navy commanders, is perhaps of no material importance. The other reasons are presumed to be amply sufficient to convince them that the motives for declining this overture, are compatible with an earnest wish that the measures concerted by these treaties may prove successful in extirpating that root of numberless evils, the traffic in human blood, and with the determination to co-operate to the utmost extent of our powers, in this great vindication of the sacred rights of humanity."

*Copy of a letter from Mr. Rush to Lord Castlereagh, dated*

LONDON, December 21, 1818.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honor to present his compliments to Lord Castlereagh.

In the note of the twenty-third of June, which the undersigned had the honor to address to his Lordship, in answer to his Lordship's communication of the twentieth of the same month, relative to the slave trade, the undersigned had great pleasure in giving the assurance that he would transmit a copy of that communication to his Government, together with the documents which accompanied it, being copies of treaties entered into on the part of Great Britain, with Spain, Portugal, and the Netherlands, for the more complete abolition of the odious traffic in slaves. He accordingly lost no time in fulfilling that duty, and has now the honor to inform his Lordship of the instructions with which he has been furnished by his Government in reply.

He has been distinctly commanded, in the first place, to make known the sensibility of the President to the friendly spirit of confidence in which these treaties, and the legislative measures of Parliament founded upon them, have been communicated to the United States, and to the invitation which has been given that they would join in the same or similar arrangements, the more effectually to accomplish the beneficent object to which they look. He is further commanded to give the strong-

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est assurances that the solicitude of the United States for the universal extirpation of this traffic continues with all the earnestness which so long and steadily distinguished the course of their policy in relation to it. Of their general prohibitory law of 1807, it is unnecessary that the undersigned should speak, his Lordship being already apprized of its provisions; among which the authority to employ the national force, as auxiliary to its execution, will not have escaped attention. But he has it in charge to make known, as a new pledge of their unremitting and active desire in the cause of abolition, that, so lately as the month of April last, another act of Congress was passed, by which, not only are the citizens and vessels of the United States interdicted from carrying on, or being in any way engaged in, the trade, but in which, also, the best precautions that legislative enactments can devise, or their penalties enforce, are raised up against the introduction into their territories of slaves from abroad, under whatever pretext attempted, and especially from dominions which lie more immediately in their neighborhood. A copy of this act is herewith enclosed for the more particular information of his Lordship. That peculiarity in the eighth section which throws upon a defendant the labor of proof as the condition of acquittal, the undersigned persuades himself will be regarded as signally manifesting an anxiety to suppress the hateful offence, departing as it does from the analogy of criminal jurisprudence which so generally requires the independent and positive establishment of guilt as the first step in every public prosecution. To measures of such a character, thus early adopted and sedulously pursued, the undersigned is further commanded to say, that the Government of the United States, acting within the pale of its Constitutional powers, will always be ready to superadd any others that experience may prove to be necessary for attaining the desirable end in view.

But, on examining the provisions of the treaties, which your Lordship honored the undersigned by communicating, it has appeared to the President that their essential articles are of a character not adapted to the circumstances or to the institutions of the United States.

The powers agreed to be given to the ships of war of either party to search, capture, and carry into port for adjudication, the merchant vessels of the other, however qualified, is connected with the establishment, by each treaty, of two mixed courts; one of which is to have its seat in the colonial possessions of the parties respectively. The institution of such tribunals is necessarily regarded as fundamental to the whole arrangement, whilst their peculiar structure is doubtless intended, and would seem to be indispensable, towards imparting to it a just reciprocity. But to this part of the system, the United States, having no colonies upon the coast of Africa, in the West Indies, or elsewhere, cannot give effect.

Moreover, the powers of government in the United States, whilst they can only be exercised within the grants, are also subject to the restrictions of the Federal Constitution. By the latter instru-

ment, all judicial power is to be vested in a Supreme Court, and in such other inferior courts as Congress may from time to time ordain and establish. It further provides, that the judges of these courts shall hold their offices during good behaviour, and be removable on impeachment and conviction of crimes and misdemeanors. There are serious doubts whether, obeying the spirit of these injunctions, the Government of the United States would be competent to appear as party to the institution of a court for carrying into execution their penal statutes in places out of their own territory—a court consisting partly of foreign judges not liable to impeachment under the authority of the United States, and deciding upon their statutes without appeal.

Again: Obstacles would exist towards giving validity to the disposal of the negroes found on board the slave-trading vessels, condemned by the sentence of the mixed courts. If they should be delivered over to the Government of the United States as freemen, they could not, but by their own consent, be employed as servants or free laborers. The condition of negroes and other people of color in the United States being regulated by the municipal laws of the separate States, the Government of the former could neither guaranty their liberty in the States, where they could only be received as slaves, nor control them in the States where they would be recognised as free. The provisions of the fifth section of the act of Congress, which the undersigned has the honor to enclose, will be seen to point to this obstacle, and may be taken as still further explanatory of its nature.

These are some of the principal reasons which arrest the assent of the President to the very frank and friendly overture contained in your Lordship's communication. Having their foundation in Constitutional impediments, the Government of His Britannic Majesty will know how to appreciate their force. It will be seen how compatible they are with the most earnest wishes on the part of the United States that the measures concerted by these treaties may bring about the total downfall of the traffic in human blood; and with their determination to co-operate, to the utmost extent of their Constitutional power, towards this great consummation so imperiously due at the hands of all nations to the past wrongs and sufferings of Africa.

The undersigned prays Lord Castlereagh to accept the assurances of his distinguished consideration.

RICHARD RUSH.

*Mr. Rush to the Secretary of State—Extract.*

LONDON, March 5, 1819.

"Lord Castlereagh sent me, a few days ago, the enclosed printed parliamentary document. It will be found to comprise a variety of interesting papers relating to the slave trade, exhibiting all that has lately been done by the Powers of Europe upon the subject, and the actual and precise footing upon which it now stands. Its receipt was

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the first notice that I had in any shape of the fact of the publication, or of there being any intention to publish my notes to this Government of the 23d of June and 21st of December. It will be seen, from one of the papers, how unequivocal and animated has been the refusal of France to allow her vessels to be boarded and searched at sea for slaves. Now, there is nothing more evident, as may be collected from my despatch of the 15th of last April, than that this is a result which, at that period, Lord Castlereagh did not anticipate. Nevertheless, it would seem, from a passage in his Lordship's letter to Lord Bathurst, from Paris, dated the 10th of December, the last paper in the collection, and written subsequently to all the conferences and declarations at Aix la Chapelle, that he still indulges a sanguine expectation that 'the French Government may be brought, at no distant period, to unite their naval exertions with those of the other allied Powers, for the suppression of the trade.' Some of the evidence furnished by the African Society, in London, and from Sierra Leone, as to the extent in which the trade continues to be unlawfully carried on, may probably command attention in the United States.

"What communications may, at any former periods, have been made to the Government of the United States, by the Government of France, Russia, or Prussia, through any channel, either in Europe or at Washington, of their intentions in regard to this naval combination for putting down the traffic, I am not informed. It is impossible to refrain from remarking, that, to me, they remained utterly unknown, until I saw them recorded in these pages of a document given to the world by England."

*Extract of a letter from Mr. Rush to the Secretary of State, dated London, November 10, 1819.*

"On the 7th of this month I received a note from Lord Castlereagh, requesting that I would call upon him at his house on the 9th. I waited upon him at the time appointed.

"His object, he stated, was to say to me, that the Government of Great Britain had lost none of its anxiety to see produced among nations, more universal and effective co-operation than had yet been witnessed, for the total abolition of the slave trade. It was still carried on, he observed, to an extent that was afflicting. In some respects, as the evidence collected by the African Institution and from other sources would show, the voyages were marked by more than all their original outrages upon humanity. It was the intention of the Prince Regent again to invite the United States to negotiate upon the subject, in the hope, notwithstanding what had heretofore passed, that some practicable mode might still be adopted by which they could consent to become party to the association for finally extirpating the traffic. That I was aware of the addresses which had been presented to his Royal Highness by both Houses of Parliament, at the close of the last session, for the renewal of negotiations with the Governments both of the United States and France, to effectuate this

most desirable end. That it was his Lordship's design to enclose to me, at an early day, copies of these addresses, as a foundation upon which to build in the new endeavor which this Government was now prepared to make. In doing so, his object, however, merely would be, that of bespeaking my interposition towards making known to the President the measures contemplated; since it was intended that all further negotiation should be carried on at Washington. This he thought indispensable after the past failure, as it could not be supposed that I was prepared with any new authority or instructions to resume it upon this side of the water. That the new Minister, Mr. Canning, who, his Lordship now informed me, was to sail as early in the Spring as practicable, would accordingly have the whole subject in charge, and be prepared to enter upon it on his arrival, under ardent hopes for an auspicious termination of his labors. I replied that I would, in the same spirit as before, make known the communication to my Government. I adverted again to the obstacles which the Constitution of the United States interposed to the project; and also to the peculiar and extreme caution with which the momentous question of search mingled with it would be looked at throughout every part of the country. I said that these reasons superadded themselves to that derived from the failure of the attempt already made here to give great propriety, as it struck me, to a change of the scene of negotiation. That if any thing could be done, it could be done only, or at all events be done best, at Washington. That the President, I was sure, continued to possess all his original sensibility to the importance of the subject, and would entertain any proposals, differently modified, that were submitted, with the same anxious dispositions as ever, for a favorable result to their objects.

"The conversation went off by reference on my part to the Holy League. I remarked that, as the Government of Great Britain had declared, that the principles of that league had its entire approbation, although it had not formally become a party to it, so the United States, acting within their Constitutional limits, had long and earnestly striven, and would, it might be confidently affirmed, though restrained from going hand in hand with Europe, always continue their efforts in the same beneficent spirit, for putting down totally the slave trade. It is well known that the Earl of Liverpool, not longer ago than last February, described, in the House of Peers, the character of this league, as well as the insurmountable impediment which held back this country from signing it. He distinctly declared that, as the signatures were all in the autograph of the respective sovereigns, England, in point of form, could never accede to it; for it was not consistent with her constitution that the Prince Regent should himself sign such an instrument, without the intervention of a responsible Minister. Upon my reminding Lord Castlereagh of this declaration, which I was the more ready to do so since it was your wish that the illustration should be brought into view, he candidly admitted that we too doubtless had

*Suppression of the Slave Trade.*

our Constitutional embarrassments; but he nevertheless hoped that such, and all others, might, by proper modifications of the plan, be overcome."

*Mr. Canning to the Secretary of State.*

WASHINGTON, Dec. 20, 1819.

The undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, took an early opportunity, after his arrival in the City of Washington, to inform Mr. Adams that, in pursuance of Lord Castlereagh's note, dated the 11th November, 1819, communicating to Mr. Rush an address of both Houses of Parliament, relating to the African slave trade, he was instructed to bring that important question again under the consideration of the American Government, in the hope of being found practicable so to combine the preventive measures of the two countries as materially to accelerate the total extinction of an evil, which both have long united in condemning and opposing.

Mr. Adams will find no difficulty in recollecting the several conversations which have passed between him and the undersigned on this subject; he will remember that the last of those conversations, which took place towards the close of October, was terminated with an assurance on his part, that the proposals of the English Government would be taken into full deliberation as soon after the meeting of Congress as the state of public business would allow, with a sincere disposition to remove any impediments which appeared at first sight to stand in the way of their acceptance.

An interval of considerable length having elapsed since that period, the undersigned is persuaded that Mr. Adams will shortly be at liberty to communicate the definitive sentiments of his Government on a subject which is of too deep and too general an importance not to engage the attention and benevolent feelings of the United States.

In this persuasion, the undersigned conceives it unnecessary, on the present occasion, to go over the various grounds which formed the matter of his late conversations with Mr. Adams.

Notwithstanding all that has been done on both sides of the Atlantic for the suppression of the African slave trade, it is notorious that an illicit commerce, attended with aggravated sufferings to its unhappy victims, is still carried on; and it is generally acknowledged that a combined system of maritime police can alone afford the means of putting it down with effect.

That concurrence of principle in the condemnation and prohibition of the slave trade, which has so honorably distinguished the Parliament of Great Britain and the Congress of the United States, seems naturally and unavoidably to lead to a concert of measures between the two Governments, the moment that such co-operation is recognised as necessary for the accomplishment of their mutual purpose. It cannot be anticipated that either of the parties, discouraged by such difficulties as are inseparable from all human

transactions of any magnitude, will be contented to acquiesce in the continuance of a practice so flagrantly immoral; especially at the present favorable period, when the slave trade is completely abolished to the north of the equator, and countenanced by Portugal alone to the south of that line.

Mr. Adams is fully acquainted with the particular measures recommended by His Majesty's Ministers as best calculated, in their opinion, to attain the object which both parties have in view; but he need not be reminded that the English Government is too sincere in the pursuit of that common object, to press the adoption of its own proposals, however satisfactory in themselves, to the exclusion of any suggestions equally conducive to the same end, and more agreeable to the institutions or prevailing opinion of other nations.

The undersigned embraces this opportunity to offer Mr. Adams the assurance of his high consideration.

STRATFORD CANNING.

*The Secretary of State to Mr. Canning.*

DEPARTMENT OF STATE,  
Washington, Dec. 30, 1820.

SIR: I have had the honor of receiving your note of the 20th instant, in reply to which, I am directed by the President of the United States to inform you that, conformably to the assurances given you in the conversation to which you refer, the proposals made by your Government to the United States, inviting their accession to the arrangements contained in certain treaties with Spain, Portugal, and the Netherlands, to which Great Britain is the reciprocal contracting party, have again been taken into the most serious deliberation of the President, with an anxious desire of contributing, to the utmost extent of the powers within the competency of this Government, and by means compatible with its duties to the rights of its own citizens, and with the principles of its national independence, to the effectual and final suppression of the African slave trade.

At an earlier period of the communications between the two Governments upon this subject, the President, in manifesting his sensibility to the amicable spirit of confidence with which the measures, concerted between Great Britain and some of her European allies, had been made known to the United States, and to the free and candid offer of admitting the United States to a participation in these measures, had instructed the Minister of the United States residing near your Government to represent the difficulties, resulting as well from certain principles of international law, of the deepest and most painful interest to these United States, as from limitations of authority prescribed, by the people of the United States to the legislative and executive depositaries of the national power, which placed him under the necessity of declining the proposal. It had been stated that a compact, giving the power to the naval officers of one nation to search the merchant vessels of another for offenders and offences against the laws of the latter,

*Execution of the Treaty of Ghent.*

backed by a further power to seize and carry into a foreign port, and there subject to the decision of a tribunal composed of at least one-half foreigners, irresponsible to the supreme corrective tribunal of this Union, and not amenable to the control of impeachment for official misdemeanor, was an investment of power over the persons, property, and reputation, of the citizens of this country, not only unwarranted by any delegation of sovereign power to the National Government, but so adverse to the elementary principles and indispensable securities of individual rights, interwoven in all the political institutions of this country, that not even the most unqualified approbation of the ends to which this organization of authority was adapted, nor the most sincere and earnest wish to concur in every suitable expedient for their accomplishment, could reconcile it to the sentiments or the principles, of which, in the estimation of the people and Government of the United States, no consideration whatsoever could justify the transgression.

In the several conferences which, since your arrival here, I have had the honor of holding with you, and in which this subject has been fully and freely discussed between us, the incompetency of the power of this Government to become a party to the institution of tribunals organized like those stipulated in the conventions above noticed, and the incompatibility of such tribunals with the essential character of the Constitutional rights guaranteed to every citizen of the Union, has been shown by direct references to the fundamental principles of our Government, in which the supreme, unlimited, sovereign power is considered as inherent in the whole body of its people, while its delegations are limited and restricted by the terms of the instruments sanctioned by them, under which the powers of legislation, judgment, and execution, are administered; and by special indications of the articles in the Constitution of the United States, which expressly prohibit their constituted authorities from erecting any judicial courts, by the forms of process belonging to which American citizens should be called to answer for any penal offence, without the intervention of a grand jury to accuse, and of a jury of trial to decide upon the charge.

But, while regretting that the character of the organized means of co-operation for the suppression of the African slave trade, proposed by Great Britain, did not admit of our concurrence in the adoption of them, the President has been far from the disposition to reject or discountenance the general proposition of concerted co-operation with Great Britain to the accomplishment of the common end—the suppression of the trade. For this purpose, armed cruisers of the United States have been for some time kept stationed on the coast which is the scene of this odious traffic—a measure which it is in the contemplation of this Government to continue without intermission. As there are armed British vessels, charged with the same duty, constantly kept cruising on the same coast, I am directed by the President to propose that instructions, to be concerted between the two Governments, with a view to mutual assistance, should

be given to the commanders of the vessels respectively assigned to that service; that they may be ordered, whenever the occasion may render it convenient, to cruise in company together, to communicate mutually to each other all information obtained by the one, and which may be useful to the execution of the duties of the other, and to give each other every assistance which may be compatible with the performance of their own service and adapted to the end which is the common aim of both parties.

These measures, congenial to the spirit which has so long and so steadily marked the policy of the United States, in the vindication of the rights of humanity, will, it is hoped, prove effectual to the purposes for which this co-operation is desired by your Government, and to which this Union will continue to direct its most strenuous and persevering exertions.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Rt. Hon. STRATFORD CANNING,  
*Envoy Extraordinary, &c.*

## EXECUTION OF THE TREATY OF GHENT.

[Reported to the House, February 3, 1821.]

The select committee, to whom was referred the Message of the President of the United States respecting the progress and expenditures of the commissioners under the fifth, sixth, and seventh articles of the Treaty of Ghent, respectfully submit the following report:

The fifth article of the Treaty of Ghent provides for ascertaining the boundary from the source of the St. Croix to the northwest corner of Nova Scotia, and also from that corner, westwardly, between the United States and Canada, until the line strikes the Iroquois, now called the St. Lawrence, in latitude forty-five degrees north.

Mr. Van Ness is the commissioner of the United States for this section of the boundary line.

The sixth article of the Treaty of Ghent provides for ascertaining the boundary line, westwardly, from the above mentioned point on the St. Lawrence, through Lakes Ontario, Erie, and Huron, and their water communications to Lake Superior.

Mr. Porter, of New York, is the commissioner on the part of the United States assigned to this section.

By the seventh article of that treaty, it is stipulated that when the commissioners appointed under the sixth article shall have performed the duties required by that article, then they are authorized to determine the boundary line from the water communication between Lakes Huron and Superior to the northwest corner of the Lake of the Woods; the whole boundary to be established agreeably to the provisions of the treaty of 1783.

Mr. Porter will, of course, become the American commissioner, when he shall have finished

*Execution of the Treaty of Ghent.*

the duties required by the sixth article of the Treaty of Ghent.

By their resolution of the 21st of November last, the House requested the President of the United States to lay before them information respecting the progress made by the commissioners in establishing the boundary above mentioned, and the expenses already incurred. With his message of the 14th December last, the President transmitted a report of the Secretary of State, containing all the information in the possession of that Department requested by that resolution.

So far as relates to the boundary from the head of the St. Croix to the St. Lawrence, it seems that no information had been afforded to the Government at the date of the President's Message. Mr. Van Ness, in his letter of the 25th of November last, observes, "with respect to the progress which has been made by the commission, I understand the agent has already given to the Government all the information which it would be in my power to communicate." He also mentions that "the commissioners under the fifth article of the treaty have held two sessions the present year;" but there is no disclosure of past exertions or future prospects in the discharge of the duties assigned to him.

Since that time, the committee have been furnished with a communication from Mr. Van Ness, (marked No. 18 in the manuscript documents attending this report,) dated January 6, 1821, in which he observes that the next meeting is to be held on the 14th May, and that the commissioners intend at that meeting to continue in session until they have decided upon all questions submitted to them by the treaty. To this letter the committee would call the attention of the House, as containing much information of the progress which the commissioners under the fifth article have made. No satisfactory reason, however, is assigned why earlier information has not been given to the Government. The committee have not seen any occasion for secrecy on the part of the commissioners. They were appointed to ascertain certain facts which were supposed to exist. A disclosure of their proceedings would neither change the position of the northwest corner of Nova Scotia, nor alter the forty-fifth degree of north latitude.

The information of the progress of the commissioners under the sixth article of the Treaty of Ghent is found in the letters of Mr. Delafield, dated October 13th and November 1st, and in one from Mr. Porter, of December 2d, 1820, which are among the printed documents. These gentlemen express a belief that the surveys under the last mentioned article will be completed during the next season. But it appears that no part of the boundary is finally settled. Whether it will be done next season, must depend on the termination of the surveys and the agreement of the commissioners. Any event which should prevent the agent or commissioner on either side from attending to his duties would probably delay a decision for another year; and should the calculations of the American commissioner and agent prove correct, they will

have devoted about six years to the performance of this part of their duty.

After this they will be ready to turn their attention to the boundary from the water communication between Huron and Superior to the northwest corner of the Lake of the Woods, according to the seventh article of the treaty.

It is observed in the letter of Mr. Porter, above referred to, that "the seventh article of the treaty relates to a country which is comparatively of little importance, and a system of operations is proposed to be adopted for designating the boundary, which will greatly reduce both the time and expense of its execution." What this system of operations may be is not disclosed. It is presumed, however, to be such a system as will not endanger the rights of the nation, while it is a subject of regret that it had not been sooner applied.

From an examination of the printed documents, it appears that the sum of \$194,137 63 has been drawn from the Treasury on account of the two commissions under the treaty which have been mentioned.

Mr. Van Ness, as commissioner under	
the fifth article, has received -	\$82,444 00
Mr. Bradley, as agent -	16,655 10
	<u>\$99,099 10</u>

Of this sum, \$35,676 13 has been expended by the agent, and the accounts adjusted by the American and British commissioners; but the statements afforded are in such general terms that explanation is required to determine how far they could be approved by this Government. The remainder of the sum drawn under the fifth article remains without evidence of its disbursement, except what may be retained for the commissioner's salary.

Mr. Porter, the commissioner under the sixth and seventh articles of the treaty, has drawn from the Treasury \$65,315 95. No part has been accounted for. He has transmitted statements of expenditures to the amount of \$47,263 09, exclusive of his salary. He informs the Secretary of State that "the vouchers will be transmitted to Washington on the closing of the sixth article."

Mr. Hawkins, the late agent under	
the sixth and seventh articles, has	
drawn from the Treasury -	\$28,891 80
Received from Mr. Parker -	1,815 95

Amounting to the sum of -	30,707 75
Statements of expenditures, which	
yet are not adjusted, are furnished,	
including salary while employed,	
amounting to -	18,548 97

Balance against Mr. Hawkins	<u>\$12,158 78</u>
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It has not been explained to the committee why the persons employed under the treaty have not accounted for the moneys which have been drawn from the Treasury. The nation is as deeply interested in the proper application of its funds expended under a treaty as under any other law. It is important, also, that the Government should

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have a knowledge of past expenditures, that it may properly provide for future wants.

Agreeably to the resolution of the House of January 3, the committee have considered the expediency of fixing, by law, the salaries of the commissioners and agents under the Treaty of Ghent.

In order to come to a conclusion on the subject of that resolution, recurrence must be had to the provisions of that treaty. By the eighth article it is stipulated "that the said commissioners shall, respectively, be paid in such manner as shall be agreed between the contracting parties, such agreement being to be settled at the time of the exchange of the ratifications of this treaty; and all other expenses attending the said commission shall be defrayed equally by the two parties. It is clear that the treaty does not fix the amount of compensation which those officers are to receive. It declares that the commissioners shall be paid in such manner as shall be agreed upon by the contracting parties. The contracting parties must be understood to be the Governments of the United States and Great Britain. If this opinion of the committee be correct, it would seem to require an exercise of the same power, on the part of this Government at least, to agree upon the manner in which the commissioners should be paid, as was required to form the treaty itself.

The committee requested the Secretary of State to inform them whether any agreement had been made between the two Governments at the time of the ratification of the treaty, or since, as to the salaries of the commissioners, and whether any communication had taken place between the two Governments on the subject of that or any other expense attending the commission.

The answer to these and other inquiries, deemed material by the committee, is contained in the manuscript documents attending this report. No. 8, to which the committee would call the attention of this House, is a paper signed by Mr. Baker, containing the evidence of an exchange of the ratifications of the treaty. This paper contains the following expressions, viz: "At the same time Mr. Monroe (acting Secretary of State) expressed the willingness of the Government of the United States to arrange the payment of the commissioners to be appointed in pursuance of the treaty on the same principles as was observed in carrying into execution the treaty of 1794 between the same Powers, that is, the expense to be equally borne by the two Governments; to which arrangement the undersigned consented."

This is the only document relating to this subject which the committee have received. It appears, therefore, to the committee, that the two contracting parties have not settled the salaries nor amount of compensation which the commissioners or agents shall receive for their respective services.

It would seem, therefore, that each Government was at liberty to make such allowance to those of its own officers as should be equitable and just.

By the letter of the Secretary of State (No. 1 of the manuscript documents) the House will be fully informed what compensation has been allowed

heretofore by the Executive Government to the commissioners and agents. That letter contains a full explanation of the principles by which the Executive has been governed in regulating such compensation.

Congress having made general appropriations for carrying into execution the provisions of the Treaty of Ghent, without designating the amount for any particular service, the expenditure was left, in a great measure, to the discretion of the Executive. Such salaries were then authorized as had been allowed under the treaty of 1794 for similar services, which had received the approbation of Congress. But, as this Government is under no obligation, by any provisions of the treaty, to allow any definite compensation to those officers, they cannot derive their present salaries from any higher authority than a law of Congress. It is considered by the committee that Congress has the same power to increase or diminish any future allowances in this as in ordinary cases, where salaries are regulated by its laws.

The salaries of the commissioners under the treaty of 1794 were a subject of negotiation. The arrangements then made are referred to, as has been noticed, as principles for the execution of the Treaty of Ghent in this particular point, after having received the sanction of Congress.

Mr. Van Ness, in his letter of the 25th November, (contained among the printed papers,) observes that the British commissioners receive £1,200 sterling; and he considers it is in accordance with the treaty that the American commissioners should receive the same salary, as they are the joint officers of the two Governments.

The committee consider the opinion of Lord Grenville is correct, as expressed in No. 3 of the manuscript papers. He observed to our Minister, when in the discussion of this point, that "the clause in the treaty of 1794 did not imply that the payment of all the commissioners should be the same." It is considered that equality of salaries in this case is no more necessary than that American and British Ministers should receive an equal compensation. The same may be said of the agents. This is the opinion of one of the American commissioners, Mr. Porter. In his letter of December 2d, (among the printed documents,) with great propriety he observes, in relation to the compensation of Mr. Delafield, the acting agent under the sixth and seventh articles of the treaty, that "I believe the board of which I am a member has heretofore considered that neither considerations of justice nor national etiquette required that the compensation of the two agents should be the same."

It is observed in the statements of expenditures exhibited by Mr. Porter and Mr. Hawkins that charges are made for personal expenses, exclusive of their salaries. By recurring to the laws which have been mentioned by the Secretary of State, and considered by him as the basis of present allowances, it is provided that the compensation of commissioners who shall serve in the United States shall not exceed the rate of \$4,444 per annum. It would seem as just that the judges of

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the Supreme Court, or the officers of the Departments of Government, should charge their personal expenses while discharging their respective duties, as that this privilege should be allowed to commissioners and agents.

Nos. 9 and 15 of the manuscript documents contain the sentiments of the Executive respecting the expense and dilatory progress of the several commissions. No. 11 expresses the feeling of the British Government on the same subject. It is believed that these papers speak the language of this nation, while they afford satisfactory evidence that the Executive has exerted all the power he possesses in urging forward a prompt and faithful execution of the treaty.

The committee, however, are of opinion that, had particular instructions, as far as practicable, been issued to the commissioners and agents respecting the proper objects and amount of expenditure, and required a frequent adjustment of their accounts, their proceedings would have been rendered less expensive.

It is considered that the salaries now allowed are far greater, in proportion to the services performed, than those which are usually given to any officers of Government; that they are subject to the authority and control of Congress, and ought to be reduced.

It is also considered that the commissioners and agents should be required to render an account for the public moneys they may have received without delay; and while they were allowed, as a salary, the sum of \$4,444, it should be in full of all personal expenses.

For these purposes the committee ask leave to report a bill.

*Mr. Van Ness to the Secretary of State. (No. 18.)*

BURLINGTON, January 6, 1821.

SIR: Having just received a copy of the Message of the President of the United States to the House of Representatives, on the subject of the boundary lines to be settled under the Treaty of Ghent, and finding nothing in it that relates to the progress made by the commission under the fifth article of the treaty, I feel it my duty to trouble you with a further communication.

In the letter which I had the honor to address to you from New York on the 25th November last, I said nothing on that point, because, as I stated therein, I understood the agent had already given to the Government all the information which it would be in my power to communicate. That such was the fact, and that you had been pleased to express yourself entirely satisfied with the course pursued by the officers appointed on the part of the United States, as also had the President, was stated to me by the agent in November last, after a visit made to Washington for the express purpose of giving information and making explanations in relation to the proceedings of the commission.

I had, therefore, no reason to doubt that the President was in possession of sufficient information to state to the House of Representatives the

progress which had been made in the execution of the fifth article of the treaty. But, it now appearing that the President could not have so considered it, I hasten to inform you that all the surveys and explorations relating to the northwest angle of Nova Scotia, as designated in the treaty of 1783, and to the northwesternmost head of Connecticut river, which are essential to the discussion and decision of those two contested and important points, and the observations on the parallel of latitude between Connecticut river and the Iroquois river, which are necessary to a determination of that line, have been completed.

The obstacles to be encountered in making these surveys have been great and numerous. The whole extent of country from the source of the river St. Croix, north to the river St. Lawrence, and between that line and the head of Connecticut river, is one vast and entire wilderness, inhabited by no human being, except a few savages, and, in one spot, a few Frenchmen. The services performed have been extremely arduous, and the difficulty and expense of transportation, and of subsisting the persons engaged in the work, have necessarily been very considerable.

That a knowledge of the different ranges of high lands, and of the sources and destination of the principal streams of water in the tract of country alluded to, derived from actual and proper observations and surveys, is indispensable to a just execution of the fifth article of the treaty, will not, I think, be questioned; particularly as the claims of the respective parties are much at variance, and in view of a possibility that the case may be ultimately referred to a foreign Power.

All the reports and plans of the last season's work will soon be completed and delivered to the agents, so as to enable them to be prepared to submit their arguments to the board at its next meeting on the 14th day of May next—a period as early as it is practicable for the agent of His Britannic Majesty to come from St. John's, in New Brunswick, the place of his residence, to New York, the place of meeting. The commissioners intend at that meeting to continue in session until they shall have decided upon all questions submitted to them by the treaty. If they agree, there will only remain some running and marking of lines at a very diminished expense. But, if they should differ in their opinions, they will make separate reports, and the commission will be at an end in that way.

As to the contingent expenses, it may be remarked that they have thus far been enhanced in consequence of the performance of two distinct services at the same time—the surveys to the eastward of Connecticut river, and the astronomical operations on the parallel of latitude. But by this there will, in the end, be a saving, as, in hastening the completion of the whole business, the salary offices will the sooner expire.

I cannot close this letter without an expression of my confidence that it will not escape the observation of any person that, in a case like this, many things may not be fully understood and approved by those not immediately acquainted with all the proceedings of the commission, which, if the indi-



*Spain—Ratification of the Treaty of 1819.*

viduals concerned were on the spot, might be susceptible of explanations perfectly satisfactory, but which cannot be anticipated by those individuals.

I rely upon your kindness, sir, to transmit to the honorable the House of Representatives of the United States a copy of this communication as soon after its receipt as shall be convenient.

I have, &c.

C. P. VAN NESS.

The Hon. JOHN Q. ADAMS,  
*Secretary of State.*

SPAIN—TREATY OF 1819.

[Communicated to the Senate, February 14, 1821.]

WASHINGTON, February 13, 1821.

*To the Senate of the United States :*

The ratification by the Spanish Government of the Treaty of Amity, Settlement, and Limits, between the United States and Spain, signed on the 22d of February, 1819, and on the 24th of that month ratified on the part of the United States, has been received by the Envoy Extraordinary and Minister Plenipotentiary of that Power at this place, who has given notice that he is ready to exchange the ratifications.

By the sixteenth article of that treaty, it was stipulated that the ratifications should be exchanged within six months from the day of its signature; which time having elapsed before the ratification of Spain was given, a copy and translation thereof are now transmitted to the Senate for their advice and consent, to receive it in exchange for the ratification of the United States, heretofore executed.

The treaty was submitted to the consideration of the Cortes of that kingdom before its ratification, which was finally given with their assent and sanction. The correspondence between the Spanish Minister of Foreign Affairs and the Minister of the United States at Madrid, on that occasion, is also herewith communicated to the Senate;\* together with a memorandum by the Secretary of State of his conference with the Spanish Envoy here, yesterday, when that Minister gave notice of readiness to exchange the ratifications.

The return of the original papers now transmitted, to avoid the delay necessary to the making of copies, is requested.

J. MONROE.

*General instructions to Mr. Forsyth, Minister Plenipotentiary to Spain.*

DEPARTMENT OF STATE,  
Washington, March 8, 1819.

SIR: The Treaty of Amity, Settlement, and Limits between the United States and Spain, con-

\* These papers having been returned to the Department, the correspondence relating to this transaction, inserted in this compilation, has been collected from the communications made to Congress on the 7th December, 1819, March 9th, 14th, and 27th, 1820, May 9th and 12th, 1820, and February 2d, 1824.

cluded on the 22d ultimo, and ratified on the part of the United States, having provided for the adjustment of all important subjects of difference between the two nations, the first object of your mission will be to obtain the ratification of the Spanish Government, and receive it in exchange for ours, the authentic instrument of which is committed to your charge. The United States ship *Hornet*, Captain Read, is in readiness at Boston, and orders have been despatched, under which you will take passage in her for Cadiz. It is desirable that you should embark without delay. On your arrival in Spain, the *Hornet* will remain at Cadiz, subject to your orders, until the exchange of the ratifications can be effected; and if, as is anticipated, no obstacle should intervene to delay that transaction, you will, upon receiving the Spanish ratified copy, immediately forward it to Captain Read, with directions to bring it immediately to the United States. As the ulterior destination of the *Hornet* will be the Gulf of Mexico, the port to which it will be advisable for him to come will be New York.

On exchanging the ratifications, certificates of the fact will be mutually executed and delivered by you and the Spanish Minister with whom you will make the exchange. Copies of that which passed in both languages on the exchange of the ratifications of the convention of the 11th of August, 1802, are now furnished you, and will serve as forms to be used in the performance of this ceremony. On this occasion, as upon all others upon which you may have occasion to execute any document, joint or reciprocal, with a foreign Minister of State, you will be careful to preserve the right of the United States to the *alternative* of being first named, and your own right, as their representative, to sign first in the papers executed; while, in the counterparts, the other contracting party will be named first, and the foreign Minister will first sign and seal. A rigid adherence to this practice has become necessary, because it is strictly adhered to by all the European sovereigns in their compacts with one another; and because the United States having heretofore sometimes forborne to claim this conventional indication of equal dignity, some appearance of a disposition to allege the precedent against them, as affecting their right to it, was manifested by the British Plenipotentiaries on executing the convention of 3d July, 1815, and by Mr. De Onis at the drawing up and signing of this treaty. The scruple was, however, in both cases abandoned, and the right of the United States to the alternative was conceded. It is not expected that it will hereafter be questioned, and you will consider it as a standing instruction to abide by it in the execution of any instrument of compact which, as a public Minister of the United States, you may be called to sign.

After the exchange of the ratifications, your attention will be directed to the object of carrying the provisions of the treaty into effect. The orders for the evacuation by the Spanish officers and troops of the places occupied by them in the Floridas will no doubt be immediately issued; and, as the transports and escort for conveying them to

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the Havana are to be furnished by the United States, it is hoped you will obtain copies of the orders, and transmit them here with the ratification of the treaty. You will think it advisable to keep the Spanish Government reminded of the necessity to include, in the orders for the delivery of possession, that of all the archives and documents relating to the dominion and sovereignty. The appointment of a commissioner and surveyor for running the line of the western boundary must also be kept in remembrance, and notice given to us as soon as possible after their appointment. You will collect from the archives of the legation at Madrid all the documents relating to the claims of citizens of the United States upon the Spanish Government, which have been deposited there, and which come within the description of claims to be exhibited to the commissioners under the eleventh article of the treaty. You will send all these documents, together with the ratified treaty, to this department, retaining descriptive lists of them, and, if necessary, copies of such papers for which no equivalent substitute could be produced in case of their being lost. Should you have reason to believe that any documents, which you should be able to specify, were in possession of the Spanish Government, tending to elucidate any of these claims, you will endeavor to obtain them. The treaty provides that they shall be furnished at the demand of the commissioners; but, as much time may be saved if they can be sent here to be ready when the commission will be organized and commence the exercise of its functions, you will, should the occasion present itself, use your endeavors to that effect.

JOHN QUINCY ADAMS.

TO JOHN FORSYTH.

*Certificate of exchange of ratifications, referred to in the preceding instructions.*

We, John Quincy Adams, Secretary of State of the United States of America, and Don Luis de Onis Gonzales Lopes y Vara, lord of the towns of Rayaces, Macadina, and Iagartera, Member of different Academies and Societies, both national and foreign, perpetual Regidor of the Corporation of the city of Salamanca, Knight Grand Cross of the Royal American Order of Isabella the Catholic, decorated with the Lys of La Vendée, Knight-pensioner of the royal and distinguished Spanish Order of Charles III., Member of the Supreme Assembly of the said Royal Order, of the Council of His Catholic Majesty, his Secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America, certify that the ratifications of the convention between the said United States of America and his said Majesty, concluded on the 11th day of August, 1802, accompanied with all suitable solemnities, and after due comparison each with the other, and with the original examples of the convention, have been exchanged by us this day.

In witness whereof we have signed this act in triplicates, and have sealed the same with our re-

spective seals, at the City of Washington, this 21st day of December, 1818.

JOHN Q. ADAMS, [L. s.]  
LUIS DE ONIS. [L. s.]

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE,

Washington, March 10, 1819.

SIR: By the eighth article of the Treaty of Amity, Settlement, and Limits, signed by us on the 22d of last month, all grants of lands in the Floridas, made by His Catholic Majesty, or his legitimate authorities in those provinces, subsequent to the 24th of January, 1818, are declared to be null and void. This date, as you will recollect, was agreed to on the part of the United States, with a full and clear understanding between us that it included the grants alleged to have been made in the course of the preceding winter by the King to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas. As these grants, however, are known to the Government of the United States only from rumor, without the knowledge of their dates, it is proper that, on exchanging the ratifications, your Government should know that, whatever the date of those grants may have been, it was fully understood by us that they are all annulled by the treaty, as much as if they had been specifically named, and that they will be so held by the United States. To avoid any possible misconception, your answer to this statement is requested; and the exchange of the ratifications will be made, under the explicit declaration and understanding that all the above mentioned grants, and all others derived from them, are null and void.

I pray you to accept the assurances of my distinguished consideration.

JOHN QUINCY ADAMS.

DON LUIS DE ONIS, *Envoy, &c.*

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, March 10, 1819.

SIR: I have received the note you were pleased to address to me of this day's date, in which you state that, by the eighth article of the treaty signed by us on the 22d of last month, it was agreed, on the part of the United States, that all grants of land in the Floridas, made by His Catholic Majesty, or his legitimate authorities, subsequent to the 24th of January, 1818, are declared to be null and void, with a full understanding that it included the grants alleged to have been made in the course of the preceding Winter, by the King, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas; and that, therefore, you request of me a declaration that, whatever the date of those grants may have been, it was fully understood by us that they are annulled by the treaty, as much as if they had been specifically named.

With the frankness and good faith which have uniformly actuated my conduct, and which distinguish the character of the Spanish nation, I have to declare to you, sir, that, when I proposed the revocation of all the grants made subsequent

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to the date above mentioned, it was with the full belief that it comprehended those made to the Duke of Alagon, as well as any others which had been stipulated at that period.

But, at the same time that I offer you this frank, simple, and ingenuous declaration, I have to express to you that, if my conception had been different, or if it had appeared to me that any of those grants were prior to the date above mentioned, I would have insisted upon their recognition, as the honor of the King, my master, and the unquestionable rights of his sovereignty of his possessions, and the disposal of them, obviously required.

I will hasten to transmit to my Government due information of the whole; and, impressed as I am with the conviction of His Majesty's most earnest desire to meet the wishes of the President, I persuade myself that he will, with pleasure, participate in that sentiment, by admitting the explicit declaration which you have requested of me. In the meantime, I beg you will favor me with your answer to the explanations I requested yesterday, in relation to the late act of Congress concerning piracy.

Be pleased to accept the assurance of my distinguished consideration. God preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Mr. Forsyth.*

DEPARTMENT OF STATE,  
Washington, March 10, 1819.

SIR: By the eighth article of the Treaty of Amity, Settlement, and Limits, between the United States and Spain, signed on the 22d of last month, all the grants of lands made by His Catholic Majesty, or by his lawful authorities, since the 24th of January, 1818, in the territories ceded by His Catholic Majesty to the United States, in the Floridas, are declared and agreed to be null and void. This date was proposed by Mr. Onis, and acceded to on the part of the United States, with a full and clear understanding, on both sides, that the grants made, or alleged to have been made, in the course of the preceding Winter, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, were among those agreed and declared to be null and void. Copies of the grants to the Count of Punon Rostro and to Mr. Vargas, in the form of orders to the Governor General of the island of Cuba and to the Governor of the Floridas, had been transmitted to this department by Mr. Erving; the first of which bears date the 6th of February, and the second the 11th of March, 1818; but no copy has been received of that to the Duke of Alagon. As, however, the authenticity of these documents might be denied, and the grants have never been made public, it is proper that the possibility of any future question, with regard to those grants, should be guarded against; for which purpose, the form of a declaration is enclosed, which it will be proper for you to deliver, on exchanging the ratifications of the treaty, to the Spanish Minister with whom you will make the

exchange. The fact of the mutual understanding, that those grants were annulled by the treaty, is fully and explicitly admitted by Mr. Onis, in his answer, dated this day, to a note from me on this subject; copies of which, with a translation of his answer, are herewith enclosed. It is not anticipated that any objection will be made to receiving the declaration; if, however, there should be, you will, nevertheless, exchange the ratifications; it being sufficient to give the notice and the proof of the understanding, on both sides, of the operation of the article, and of the effect which will be given to it on the part of the United States.

I am, with much respect, &c.

JOHN QUINCY ADAMS.

JOHN FORSYTH, *Minister to Spain.*

*Form of the declaration referred to in the preceding letter.*

The undersigned, Minister Plenipotentiary from the United States of America at the Court of His Catholic Majesty, is commanded by the President of the United States to explain and declare, upon the exchange of the ratifications of the Treaty of Amity, Settlement, and Limits, between the United States and His Catholic Majesty, signed by the respective Plenipotentiaries at Washington, on the 22d day of February last, that, in agreeing upon the 24th day of January, 1818, as the date subsequent to which all grants of land made by His Catholic Majesty, or by his legitimate authorities in the Floridas, were declared to be null and void, it was with a full and clear understanding between the Plenipotentiaries of both the high contracting parties, that, among the grants thus declared null and void, were all those made, or alleged to have been made, in the course of the preceding Winter, by His Catholic Majesty, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, and all others derived from them; and the ratifications of the treaty are exchanged under the explicit declaration and understanding that all the said grants are null and void, and will be so held by the United States.

MADRID, — —, 1819.

*The Secretary of State to the Minister of France.*

WASHINGTON, March 17, 1819.

SIR: By the eighth article of the treaty lately concluded between the United States and Spain, all grants of land made by the King of Spain, or by his legitimate authorities in Florida, before the 24th of January, 1818, are confirmed, on certain conditions; all those made after that date are declared null and void.

Since the conclusion of the treaty, a rumor has been circulated that certain grants made by the King of Spain, in the course of the preceding Winter, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, were made on the 23d of January, 1818. Mr. Forsyth has therefore been instructed, on exchange of the ratifications of the treaty, to declare that it was fully and explicit-

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ly understood on both sides, at its signature, that all those grants, and all others derived from them, were, by the treaty, included among those declared to be absolutely null and void. Mr. De Onis himself, in answer to a note from me, has readily declared that such was his understanding. From the friendly part taken by you, in concert with Mr. De Onis, in this negotiation, you were apprized of all the circumstances attending it; and I have to request that you would have the goodness to state your impressions on the subject, particularly in relation to the absolute nullity of those grants, and, as far as you think proper, the facts in connexion with this transaction which you have mentioned to me in conversation.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Mr. HYDE DE NEUVILLE, *Envoy, &c.*

*The Minister of France to the Secretary of State.*

LEGATION OF FRANCE IN THE U. S.,

Washington, March 18, 1819.

SIR: I was very sure, and you were of the same opinion, that, to destroy the rumor which had been spread, it would suffice to inform the Minister of Spain of it. The loyalty which characterizes him did not permit the smallest uneasiness on the subject. After the declaration of Mr. Onis, mine can be of no importance; however, as you desire (in case the mistake of date should be real) that the fact resulting from the treaty should be well established, and by all those persons who took part, directly or indirectly, in the transaction, I have the honor, sir, to declare to you, in the most formal manner, that it has been understood—always understood, by you, by the Minister of Spain, and, I will add, by myself—that the three great grants of land made to the Duke of Alagon, to the Count of Punon Rostro, and to Mr. Vargas, were of the number of those annulled.

The date of 24th January was proposed and accepted in the complete persuasion, on one part and the other, that these three great grants were subsequent to it.

I will add, sir, because it is the exact and pure truth, that, having been charged by Mr. Onis, during his illness, to discuss with you several articles of the treaty, particularly the eighth article, you consented to the drawing up of this article more in conformity with the desire of the Spanish Minister, only on the admission, as a fact beyond doubt, that the three principal grants were and remained null, and as not having taken place. Mr. Onis has not ceased thus to understand it. He has explained himself upon it frankly and loyally, as well since as before the treaty. The mistake of date, if it exists, can, then, give birth to no difficulty whatever at Madrid. The good faith of Mr. Onis, and that of his Government, are guarantees too strong to render any other explanations necessary. Between Governments, as between individuals, the same laws of honor and probity govern transactions. The convention exists only by the convention; therefore, sir, in this case the

simple statement of the fact will be sufficient to rectify the mistake.

In answering, sir, immediately the letter which you did me the honor to write to me, I embrace with much pleasure this new opportunity to assure you of the high consideration with which I have the honor to be, &c.

G. HYDE DE NEUVILLE.

Hon. Mr. ADAMS,

*Secretary of State.*

*Observations on the eighth article of the treaty of the 22d February, 1819, between the United States and Spain, submitted to Mr. De Neuville July 14, 1819.*

It will be recollected by Mr. De Neuville that, on the 15th of February last, Mr. De Onis being confined to his house by indisposition, Mr. De Neuville, at his request, had a conversation with Mr. Adams, in which were discussed the projet of a treaty which had been delivered on the 9th of February by Mr. De Onis to Mr. Adams, and the counter-projet sent by Mr. Adams to Mr. De Onis on the 13th of the same month.

The ninth article of the projet of Mr. Onis was in these words:

"All the grants of land made by His Catholic Majesty, or by his legitimate authorities, in the aforesaid territories of the two Floridas, and others which His Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting those grants which have been made after the 24th January of last year, the date that the first proposals were made for the cession of those provinces, which shall be held null in consideration of the grantees not having complied with the conditions of the cession."

The eighth article of the counter-projet sent by Mr. Adams was as follows:

"All grants of land made by or in the name of His Catholic Majesty, in the aforesaid territories, after the 24th January, 1818, shall be held null, the conditions of the said grants not having been performed by the grantees. All grants made before that date by His Majesty, or by his legitimate authorities, the conditions of which shall have been performed by the grantees according to the tenor of the respective grants, and none other, shall be confirmed and acknowledged as valid."

Mr. De Neuville's particular attention is requested to the difference between the two projected articles, because it will recall particularly to his remembrance the point upon which the discussion concerning this article turned. By turning to the written memorandum drawn up by Mr. De Neuville himself of this discussion, he will perceive he has noted that Mr. De Onis insisted "that this article could not be varied from what is contained in the Chevalier's projet, as the object of the last clause therein was merely to save the honor and dignity of the sovereignty of His Catholic Majesty."

It was then observed by Mr. Adams that the honor and dignity of His Catholic Majesty would be saved by recognising the grants prior to the 24th of January as "valid to the same extent as they were binding on His Catholic Majesty," and

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he agreed to accept the article as drawn by Mr. Onís, with this explanation; (see Mr. De Neuville's memorandum.) It was on this occasion that Mr. De Neuville observed that, if the grants prior to January 24, 1818, were confirmed only to the same extent that they were binding on the King of Spain, there were many *bona fide* grantees, of long standing, in actual possession of their grants, and having actually made partial settlements upon them, but who have been prevented, by the extraordinary circumstances in which Spain had been situated, and the revolutions in Europe, from fulfilling all the conditions of the grants; that it would be very harsh to leave these persons liable to a forfeiture, which might, indeed, in rigor be exacted from them, but which very certainly never would be if they had remained under the Spanish dominion. It will be well remembered by Mr. De Neuville how earnestly he insisted upon this equitable suggestion, and how strongly he disclaimed for Mr. Onís every wish or intention to cover, by a provision for each person, any fraudulent grants. And it was then observed by Mr. De Neuville that the date assumed, of 24th January, 1818, was not sufficient for guarding against fraudulent grants, because they might be easily antedated. It was with reference to these suggestions of Mr. De Neuville, afterwards again strenuously urged by Mr. De Onís, that the article was finally modified as it now stands in the treaty, declaring all grants subsequent to 24th January, 1818, absolutely null, and those of a prior date valid to the same extent only that they would have been binding upon the King; but allowing to *bona fide* grantees, in actual possession, and having commenced settlements, but who had been prevented, by the late circumstances of the Spanish nation and the revolutions in Europe, from fulfilling all the conditions of their grants, time to complete them. It is needless to observe that, as these incidents do not apply to either of the grants to Alagon, Punon Rostro, or Vargas, neither of those grants is confirmed by the tenor of the article as it stands; and that it is perfectly immaterial in that respect whether they were dated before or after the 24th January, 1818, it being admitted on all sides that these grants were not binding upon the King conformably to the Spanish laws. The terms of the article accord precisely with the intentions of all the parties to the negotiation and the signature of the treaty. If the dates of the grants are subsequent to 24th January, 1818, they are annulled by the date; if prior to that date, they are null, because not included among the prior grants confirmed.

*Mr. Forsyth to the Marquis of Casa Yrujo.*

MADRID, May 18, 1819.

SIR: The treaty concluded on the 22d of February, 1819, at Washington, by Mr. Adams on the part of the Government of the United States, and the Chevalier de Onís on the part of His Catholic Majesty, has been intrusted to me by the President of the United States, duly ratified; and I am prepared to exchange the ratifications of this instru-

ment at any moment it may suit the convenience of your Excellency. From the nature of the engagement, it is desirable that the earliest exchange should be made; and this would be particularly convenient, as an opportunity is afforded of sending this important document to my Government by the American ship of war Hornet, now in the harbor of Cadiz, and destined in a few days to the United States.

I seize with avidity every opportunity to present to your Excellency, whom may God preserve, the assurances of my distinguished consideration.

JOHN FORSYTH.

The MARQUIS OF CASA YRUJO.

*Mr. Forsyth to the Marquis of Casa Yrujo.*

MADRID, June 4, 1819.

SIR: On the 18th of May last I addressed to your Excellency an official note to inform you "that I was ready to exchange the ratifications of the convention, &c., concluded at Washington by Mr. Adams and the Chevalier de Onís, on the 22d February, 1819; that it was desirable, from the nature of that instrument, that an immediate exchange of ratifications should be made, the more especially so as I had an opportunity of sending it, when ratified by the King, to the United States, by the American sloop of war Hornet, then and now lying in the harbor of Cadiz." The time at which it will be necessary for that vessel (by the return of which the American Government expects to receive the treaty ratified by His Majesty) to sail for the United States has so nearly arrived, that it is my indispensable duty to call your Excellency's attention again to the subject of that note. It would be painful for me to see this vessel depart without the treaty. The Government of the United States had a just and well founded expectation that no unreasonable delay would take place, and therefore looked to the return of this vessel for the instrument, executed with due formalities. Her arrival without it will not fail to make the most unfavorable impressions. To obviate such an effect is beyond my power, as I can perceive no adequate motive to prevent His Majesty's Government from acting on this subject prior to her departure from Spain. Your Excellency will not deem me unnecessarily importunate or unreasonable when I ask an immediate attention to this business, and express my conviction that an answer will be given to this and to my note of the 18th of May, already alluded to, on the earliest day that the convenience of His Majesty's Government will permit.

I renew to your Excellency, whom may God preserve, the assurances of my distinguished respect and consideration.

JOHN FORSYTH.

*Don Manuel Gonzalez Salmon to Mr. Forsyth.*

PALACE, June 19, 1819.

SIR: The King, my august master, has informed himself of the contents of your two notes of the 18th of May last and 4th instant, in both of which

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you state that you are ready to exchange the ratifications of the treaty concluded at Washington, on the 22d of February last, by Don Luis de Onís and Mr. Adams, and that, from the nature of that treaty, and the favorable opportunity of transmitting it to the United States, by the *Hornet* sloop of war, you are desirous that the said exchange may be made as expeditiously as may be.

I have also submitted to His Majesty the purport of your verbal communications to me on this subject, and I again brought to his view your observations thereon in the two several conferences I have had the honor to hold with you.

His Majesty has, in consequence, commanded me to inform you, in reply, that, on reflecting on the great importance and interest of the treaty in question, he is under the indispensable necessity of examining it with the greatest caution and deliberation before he proceeds to ratify it.

This being all I am enabled to communicate to you on this point, for the present, I avail myself, with pleasure, of the renewed occasion it affords me to offer you my respects, and I pray God to preserve you many years.

M. GONZALES SALMON.

*Mr. Forsyth to Don Manuel Gonzales Salmon.*

MADRID, June 21, 1819.

SIR: The determination of His Catholic Majesty to delay the exchange of ratifications of the treaty signed on the 22d February, at Washington, by Mr. Adams and the Chevalier de Onís, as communicated by your Excellency's note of the 19th instant, in reply to my notes of the 18th May and the 4th of the current month, fills me with regret. As the subject-matter of that treaty has been for years before the two Governments, both of whom have no doubt long since discussed and deliberately determined upon what they would respectively claim and yield, I took it for granted no motive for delay could exist. Your excellency's note, whilst it states to me the fact that a longer delay is contemplated, does not enlighten me as to the cause. The measure is, no doubt, important and interesting to His Majesty's kingdom, but no new light can have broken in upon the subject since the instructions were given to the Chevalier de Onís, upon which the treaty is founded, on the part of Spain—no change of the circumstances of the parties to it had occurred—no new causes of difficulty or complaint are known to exist. Although the words of the treaty allow six months to elapse before the instrument is annulled, if the exchange of ratifications is not previously made, I must represent to your excellency that every hour's delay is at variance with the spirit of the instrument. The stipulated time was, to guard against accidents, extended to the longest period which, under any circumstances, could be required to effect the change. Had the distance of our respective Governments permitted, the time fixed would not have been extended beyond a single day. If the Government of the United States had not gratuitously offered the exchange here, His Majesty would have been compelled ere this

to have transmitted the treaty ratified on the part of Spain to America, or have lost the benefit of the convention. You will recollect that no place is fixed at which the exchange is to be made. It is to the confidence of the American Government in the good disposition of Spain that the King, your master, is indebted for the opportunity thus to delay acting upon the subject. The ill consequences which will ensue from this postponement, and the impression likely to be made by it, can be easily foreseen. Your excellency may correctly estimate the conjectures to which it will give birth in the United States from what is passing here. You, perhaps, are yet to learn that the delay of the last month has given rise, at the seat of His Majesty's Government, among his own subjects, to the most monstrous and absurd suppositions. Among the subjects of Spain, those who best know the integrity of the King, and the purity of his councils, it is asserted that an act required by the policy of this Government, essential to the interests of this kingdom, and demanded by the honor of the King, will not be performed. Yes, sir; the King is calumniated in his very capital by a most unjust surmise that there will be a refusal to do that which the reputation of Spain requires—that which Spain dare not refuse to do. Your excellency will not understand this as threatening His Majesty's Government with the consequences which might ensue from the resentment of the United States, if it were possible for Spain to act in this business with bad faith. Threats are used by conscious weakness, not by conscious strength. I know too well the abundant resources, the expanding power, the youthful vigor of my country, to degrade her character by using language unworthy of it; if not by my respect for Spain, I should be prevented by the fear of the deserved resentment of my own country; I should not be easily forgiven for condescending to say how she would punish an act of perfidy. It is by her acts, and not by the railings of her ministers, that she will be known to those who violate the faith pledged to her. But there is this, which a just Government will more cautiously avoid than even the well-founded resentment of a powerful nation: the degradation of conscious baseness. No wise King will dare to do an act which would deprive him of the respect of all nations, sully the reputation of his kingdom in the eyes of the civilized world, and deprive his people of the strongest incentive to virtuous exertions, under every dispensation of Heaven—the confidence in the integrity of their Government. If, even in Spain, unjust surmises and unfounded mistrusts are entertained, your Excellency, recollecting the lately-subsided irritations of long-continued disputes with the Government of His Majesty, will not be surprised that, in the United States, the same cause should produce, not suspicions, but firm convictions of the intention of this Government to disappoint the expectations reposed in its good faith. I know full well that in two months the act of the exchange of ratifications will prove that these harsh convictions have been hastily and incorrectly formed; but the impression of them may remain,

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and the motive for the delayed exchange may be misunderstood. I have used every effort to avert it, but in vain. If my apprehensions should not be realized, I shall heartily rejoice.

It only remains for me to say, in this last note that I shall address to your Excellency on this subject that whenever His Majesty directs you to exchange the ratification of the treaty of 22d of February, 1819, I am prepared, at any period before the 22d of August, on the part of my Government, to perform that ceremony.

I renew to your Excellency, whom may God preserve, the full assurance of my perfect respect.

JOHN FORSYTH.

*Don Manuel Gonzales Salmon to Mr. Forsyth.*

MADRID, August 10, 1819.

SIR: I duly received the note you were pleased to address to me, dated the 21st of June last, in answer to that which I had the honor to write to you on the 19th of the same month, being my reply to your notes of the 8th of May and 4th of June, requesting the speedy ratification and exchange of the treaty lately concluded at Washington, on the 22d of February of the present year, between His Majesty the King, my master, and your Government.

In my said reply, I confined myself to stating to you that His Majesty, having taken that important subject into his most serious consideration, had found it indispensably necessary to examine the treaty with the utmost caution and reflection before he proceeded to ratify it.

In your answer you express your surprise at the delay attending a transaction which, having been already thoroughly discussed, could require no renewed examination of its final and definitive decision; and the more so, as the circumstances which led to it had experienced no change with either party. You proceed to develop, at length, the injurious effect that, in your opinion, must be produced by the delay of the Spanish Government in concluding this affair, and also of the disagreeable consequences that you foresee must result from that delay; and you conclude by stating that, whenever His Catholic Majesty shall please to authorize me to exchange the ratifications of the treaty of 22d February, 1819, you are ready to execute that act on behalf of your Government at any time prior to the date of the 22d of August.

It would have been desirable if you had confined yourself, in your said note, to expressing your surprise and that of your Government at the delay on the part of Spain in terminating, by her ratification, an affair which, according to the intention of both, was to be considered as concluded, and to earnestly requesting the exchange of the same, by which the wishes of your Government, and one of the principal objects of your arrival at this Court, would be accomplished.

Thus, it is to be supposed that you would have only conformed to the instructions which you will probably receive from your Government; and, therefore, other expressions and phrases you have

used in your note cannot fail to appear very extraordinary, which your ardent zeal for the interests of your nation has doubtless prompted you to employ, but in which you have been carried farther than really could have been wished.

The expressions and phrases alluded to, which I refrain from otherwise specifying, are, to say the least, entirely superfluous, and consequently foreign to the subject in question; they have, therefore, surprised the more, as in no possible case can they be applicable to the Spanish Government or to its agents. Convinced of the rectitude and justice of its rights, and of those ever prescribed by the bounds of moderation, it never has, in its communications, permitted itself to go to such extremes as would justify the proceeding now adverted to.

There would be much to remark upon a style so unusual in diplomatic communications, and still less conformable to the sentiments of mutual friendship and harmony which should exist between the two Governments of Spain and the United States of America, as well as of those which, as its representative, you are in a situation to express; but I shall abstain from any particular detail or comment upon your expressions, and confine myself merely to declare to you, as I have already done, the extreme surprise produced by that part of the contents of your note.

I am at the same time authorized by the King, my master, to inform you that, having deliberately weighed the important subject which forms the principal object of your communication, he is of opinion that a final decision cannot be taken thereupon without previously entering into several explanations with the Government of the United States, to some of which your Government has given rise.

His Majesty has therefore been pleased to charge with his full confidence a person possessing all the qualifications necessary for bringing this interesting trust to a happy conclusion, who will forthwith make known to the United States His Majesty's intentions on this point, in order that, all obstacles being removed on the one side and cleared up on the other, all the doubts which have arisen may be done away, and a full and satisfactory accomplishment given to the earnest desire which has animated the King, my master, on this subject, which certainly has uniformly been to see the friendship and good understanding subsisting between both Governments established on the most solid basis, and secured against future chances of interruption.

His Catholic Majesty persuades himself that the Government of the United States, in accordance with these principles and sentiments, far from refusing to admit these new explanations, will cheerfully receive them as a proof of the good faith and frankness of the conduct of Spain; and that they will accede to her views, by promoting also on their part the speedy conclusion of an affair productive of the mutual advantage of both Powers.

I offer, &c.

MANUEL G. SALMON.

JOHN FORSYTH,

Minister, &c.

*Spain—Ratification of the Treaty of 1819.*

*Mr. Forsyth to Senor Don Manuel Gonzales Salmon,  
Secretary of State, &c.*

MADRID, August 12, 1818.

SIR: I received this morning your official note of the 10th instant. Some of the expressions of the note which I had the honor to present to His Majesty's Government on the 21st of June last appear to have given offence. As you have not specified the particular phrases or expressions which are considered censurable, I can only say that it was far either from my wish or intention to treat His Majesty's Government with disrespect, or to use terms calculated to interrupt the harmony and good understanding which ought to exist between it and the United States. I came here instructed by the President, and animated by the warmest wishes to strengthen, not to weaken, the almost broken bands of amity by which the two nations are still united. I can but regret that, in my zeal to promote this great object, I have used language capable of being misunderstood. You will consider that this regret does not spring from a conviction that the construction put upon my note is just. So far from admitting this, I must insist that there is nothing contained in it which, if rightly interpreted, could be deemed objectionable; and I cannot but indulge the belief that the language has been held offensive, not from its genuine and original import, but from some fatality in its application. As to the remarks you have been pleased to make, that these unusual expressions were idle, (*ociosos*,) not pertinent to the business in question, and not common in diplomatic communications, they are not sufficiently important to merit a distinct reply. The first two it is not the province of His Majesty's Government to reprove; to my own Government I look for approbation or censure. There is no doubt that the pertinency of the matters referred to will not escape its penetration. Should I be convicted of the offence of departing from the ordinary diplomatic style, I shall find abundant consolation in the consciousness of having expressed just sentiments in simple terms. The course pursued by the Government of His Catholic Majesty, and intended to be persisted in, as indicated by your note, is much more likely to disturb the harmony of the two nations than the intemperate zeal of the representatives or agents of either. On the 22d of February, the convention was signed at Washington, by Mr. Adams and the Chevalier de Onis. In April, a copy of it was received in Spain from the messenger sent by the Spanish Minister from America. It is not necessary to remind you that the satisfaction of this Government in the termination of this important business was marked by the distribution of honors in the gift of the Crown to persons very remotely connected with the transaction. What has produced the very surprising change in the opinions then entertained on this subject, is for you, sir, to explain, if you think proper, but is what I cannot imagine. On the 18th of May, immediately after my introduction to His Majesty, the note of that date was delivered. It was therein stated that the treaty ratified by the United States

was in Madrid, and an immediate exchange of ratifications was asked, that this important document might be sent to my Government by a vessel of war bound in a short time from Cadiz to America: to this no reply was given. Under the expectation entertained from several conversations with the Marquis de Casa Yrujo, the substance of which has been verbally stated to you, the vessel was detained in the port of Cadiz until the 2d of July. In this interval the only communication received on this important subject was your note of the 19th June, the purport of which was, that His Majesty found it necessary to proceed with the deliberation and slowness demanded by its importance, to consider the subject of the treaty. On the 12th day of August, His Majesty's Government gives notice, by your note of the 10th, of its determination—to ratify? no, sir, to send a person to Washington, possessing the confidence of the King, and having the necessary qualifications to terminate happily this affair. Can it have escaped the observation of this Government that this affair must terminate in ten days? While a failure to resolve finishes the business in a few days, this Government thinks that a definitive resolution cannot be taken without first entering into various explanations with the United States, to some of which the Government of the said States has given occasion. What circumstance in the history of this affair sustains the assurances that His Majesty finds himself animated by the most vehement desires to preserve a good understanding with, and the friendship of, the United States? Is it the disappointment of the rational anticipation, indulged in America, that the treaty ratified by Spain would be carried there in the ship of war *Hornet*? The determination to send a messenger to the United States for explanations, at this period, when his voyage, as it regards the convention, must be useless; and the only hope which can be entertained from it is, that a new negotiation may be commenced—a circumstance of especial weight, when it is recollected that this messenger might have been sent to Washington, the desired explanations might have been asked, and given there prior to the 22d of August, if the King, your master, had decided promptly on this course. Or is it in the inexplicable and studious avoidance of the natural order of proceeding in a case of this kind—an application to the Minister of the United States near the Court of His Majesty for these necessary explanations, when they might have been, possibly, long since given, and still may be given before the period arrives when the convention of the 22d of February ceases to be obligatory upon the parties to it? You will forgive me, sir, if I perceive in none of these circumstances indications of those vehement desires by which His Majesty's Government is animated, to establish, on a solid basis, a good understanding with the United States, to which, in the usual style of diplomatic communications, you refer. Since, however, I am bound and most willing to believe their existence, although the conduct of Spain has a tendency to force a different conviction upon the mind, allow me to suggest the only mode in which they can now be fully manifested



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and gratified; with that frankness and openness so honorable to all nations, and by which the Castilian character has been distinguished, disclose the difficulties that appear to interpose themselves to prevent the immediate conclusion of this affair. I am fully instructed by the Government of my country upon the only point on which it can have given a motive for explanations; and while I cannot imagine what others are wished for, I persuade myself that I am so well possessed of its wishes and intentions as to be able to give full satisfaction to His Majesty upon any part of the treaty, the elucidation of which may be desired.

I renew to you, sir, the assurances of my distinguished consideration.

JOHN FORSYTH.

*The Secretary of State to Mr. John Forsyth.*

DEPARTMENT OF STATE,  
Washington, August 18, 1819.

SIR: Captain Read, of the Hornet, has delivered to me your despatches of the 10th, 17th, and 22d of June, which have been submitted to the consideration of the President.

However extraordinary the conduct of the Spanish Government, in relation to the treaty signed on the 22d of February last, has been, the President is unwilling to abandon the hope that, within the period of six months allowed for the exchange of the ratifications, a sense of justice, and of decent regard for the public faith of the King and nation, solemnly pledged by the treaty, will prevail over the individual intrigues and lurking influence which prompted the delay that has taken place. Should this expectation, however, be disappointed, and should the treaty remain unratified by Spain at the time when you shall receive this despatch, you will immediately make an official communication to the Minister of Foreign Affairs, stating that the ratification of Spain, with the explicit understanding, on her part, that the alleged grants to the Duke of Alagon, Count of Punon Rostro, and Mr. Vargas, and all others which may have been made under the same circumstances, are, by the eighth article of the treaty, null and void, and will be so held by the United States, will be accepted as valid; and that you are authorized to receive the Spanish ratification in exchange for that of the United States, though after the lapse of the stipulated six months, provided the exchange shall be immediate, and in such time that you can despatch the ratified treaty by the messenger who will be the bearer of this in season to arrive here before the meeting of Congress, on the first Monday in December; that, if the ratified treaty should not arrive here at that time, a full communication will be made by the President to Congress of all the transactions relating to the treaty, and such measures will be adopted by that body as they shall think required by the exigency of the case; that, whatever their determination may be, the Spanish Government will be responsible to the United States for all damages and expenses which may arise from the delay or refusal of Spain to ratify, and from the

measures to which the United States may resort to give efficacy to their rights; and that, for the indemnities to which they will be justly entitled for this violation of faith by Spain, the United States will look to the territory west of the Sabine river.

The only reason assigned by the Minister of State *ad interim*, Salmon, for the postponement of the Spanish ratification was, the determination of the King, founded upon the great importance of the treaty, to act upon it with full deliberation. This may have been sufficient to justify delay within the period stipulated by the treaty, but, after the expiration of that period, can no longer be alleged. Delay beyond that period will be a breach of faith; for the treaty, in all its parts, from the moment of its signature by Mr. Onis, and the ratification of the United States, was as binding upon the honor and good faith of the Spanish King and nation as it would be after the ratification. It is scarcely supposable that Spain will contest this position, or that it should be necessary to present it to her view in the following terms of the full power of Mr. Onis, the original of which, signed by the King of Spain, was delivered to me before the signature of the treaty. The words of His Catholic Majesty are, after authorizing Mr. Onis to treat, negotiate, and conclude a treaty, whereby past differences may be adjusted, and a firm and lasting peace established between the two Governments: "Obliging ourselves, as we do hereby oblige ourselves and promise, on the faith and word of a King, to approve, ratify, and fulfil, and to cause to be inviolably observed and fulfilled, whatsoever may be stipulated and signed by you; to which intent and purpose, I grant you all authority and full power, in the most ample form, thereby as of right required."\* If language so explicit and unqualified were, in regard to its import, susceptible of any doubt, founded on the usage which requires the ratification of the sovereign for the full consummation of a treaty, there is nothing dubious or uncertain in the extent of obligation resting upon him, by the signature of his Minister, vested with such a full power. The following passages from Vattel and Martens are decisive authorities upon the principle:

"Sovereigns treat together by the agency of their attorneys or mandatories, clothed with sufficient powers; they are commonly called plenipotentiaries. All the rules of the law of nature, concerning things performed by commission, are here applicable. The rights of the agent are defined by the authority given him. From this he must not depart; but whatever he promises within the terms of his commission, and according to the extent of his powers, is binding upon his constituent."

"At this time, to avoid all danger and diffi-

\* "Obligandonos y prometemos, en fe y palabra de Rey, que aprobaremos, ratificaremos, cumpliremos, y haremos observar y cumplir inviolablemente quanto por vos fuere estipulado y firmado; para lo qual os concedo todas las facultades y plenos poderes en la forma mas amplia que de derecho se requieren."

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culty, princes reserve to themselves the right of ratifying that which has been concluded by their minister in their name. The full power is merely a commission, *cum libera*. If this commission were to have its full effect, it should be given with the utmost circumspection; but, as princes can be constrained to fulfil their obligations only by force of arms, the custom has arisen of relying upon their treaties only after they have sanctioned and ratified them. Whatever the minister has concluded remaining ineffectual until the ratification of the prince, there is less danger of giving him a full power. But to refuse, with honor, to ratify that which has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it, and, particularly, he must show that his Minister transcended his instructions."—*Vattel*, book 2, chapter 12, § 156.

"Every thing that has been stipulated by an agent, in conformity to his full powers, ought to become obligatory for the State, from the moment of signing, without even waiting for the ratification. However, not to expose a State to the errors of a single person, it is now become a general maxim that public conventions do not become obligatory till ratified. The motive of this custom clearly proves that the ratification can never be refused with justice, except when he who is charged with the negotiation, keeping within compass with respect to his public full powers, has gone beyond his secret instructions, and consequently has rendered himself liable to punishment, or when the other party refuses to ratify."—*Martens's Summary*, book 2, chapter 1, sec. 3.

The obligation of the King of Spain, therefore, in honor and in justice, to ratify the treaty signed by his Minister, is as perfect and unqualified as his royal promise in the full power; and it gives to the United States the right, equally perfect, to compel the performance of that promise.

Should it be suggested that the United States themselves have, on more than one occasion, withheld or annexed conditions to the ratification of treaties signed by their Plenipotentiaries in Europe, it will readily occur to you that, by the nature of our Constitution, the full powers of our Ministers never are or can be unlimited; that whatever they conclude must be, and by the other contracting party is always known and understood to be, subject to the deliberation and determination of the Senate, to whose consideration it must be submitted before its ratification; that our full powers never contain the solemn promise of the nation to ratify whatever the Minister shall conclude, but reserve, expressly, not only the usual right of ratification, but the Constitutional privilege of the Senate, to give or withhold their assent to the ratification; without which assent, by a majority of two-thirds of the members present at the vote taken after consideration of the treaty, the President has no authority to ratify. In withholding or refusing the ratification, therefore, no promise or engagement of the State is violated. But neither the same reason nor the same principle applies to the King of Spain, who possesses the sole, entire, and exclusive power of ratifying treaties

made by his Ministers, and who, therefore, by the promise, on the faith and word of a King, to ratify whatever his Minister shall sign, commits his own honor and that of his nation to the fulfilment of his promise. This distinction is well known and clearly recognised by the law of nations.\*

The Spanish Government cannot allege either that Mr. Onís transcended his secret instructions, or that the ratification of the United States has been refused, or that any unfair advantage was taken on the part of the United States in the negotiation, or that Spain was not fully aware beforehand of the full extent of the engagements contracted by Mr. Onís. It is too well known, and they will not dare to deny it, that Mr. Onís's last instructions authorized him to concede much more than he did; that those instructions had been prepared by Mr. Pizarro; that, after the appointment of the Marquis de Casa Yrujo to the ministry, they were by him submitted to the King's council, and, with their full sanction, were transmitted to Mr. Onís; that, both in relation to the grants of lands in Florida, and to the Western boundary, the terms which he obtained were far within the limits of his instructions; that it was known to and understood by him that the grants to Alagon, Punon Rostro, and Vargas, were annulled by the treaty; that, so fully was this his understanding, that, in his despatches to his Government, he pointed out to them means of indemnifying those grantees for their disappointment from other lands. The Government of the United States, indeed, considered the moderation and generosity of the terms to which they had acceded as a pledge that they would be received with pride and joy by the Spanish Government; and so, it will not be denied, they were in the first instance received by the King of Spain and his Cabinet. If, afterwards, from the unexpected extent of sacrifices which the United States made, for the purposes of conciliation and of sincere amity, Spain has drawn the inference that this temper may be trifled with and abused, it is proper, and will be just, that she should be effectually undeceived.

Should the ratification be withheld, it is to be presumed that some other reason than the importance of the treaty will ultimately be assigned by Spain for withholding it. What that will be, can at present only be conjectured. If the grants to the Duke of Alagon and Count Punon Rostro should be assigned as forming the objection, you will explicitly declare that the United States have no compromise to make, and will listen to none on that subject. The insinuation of the Marquis of Casa

\* The sovereign who possesses full and absolute power has undoubtedly the right to treat in the name of the State which he represents, and his engagements bind the whole nation. But the rulers of nations have not all the exclusive power of making public treaties; some are under the restriction of taking the advice of the Senate, or of the representatives of the nation. It is in the fundamental laws of each State that we must look for the power capable of contracting valid engagements in the name of the State.—*Vattel*, book 2, chapter 12, sec. 151.

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Yrujo that those grants, by the letter of the eighth article, would be confirmed if dated before the 24th of January, 1818, was totally unfounded. Mr. Onís knows that the whole of the eighth article was finally drawn up as it stands, with the express intention, declared by me, and agreed to by him, to exclude them from confirmation, whatever might be their dates. Mr. Onís, on the first projet of a treaty, delivered on the 9th of February, had drawn the article in such terms as to confirm all grants made before the 24th of January, 1818. If the article had even been accepted by us in those terms, it could only by an unworthy deception be pretended that it covered the grants of Alagon and Punon Rostro, because it had been explicitly agreed, on both sides, that they should be annulled, and because Mr. Onís, who always spoke of them as fraudulent grants, of which he was ashamed for his country, has repeatedly declared to me that he signed the treaty without knowing their dates, but fully believing them to be subsequent to the 24th of January. If, then, the confirmation of the grants prior to that date had been, as it was first proposed by Mr. Onís, positive and unqualified, and if the grants had been completely made before that date, there might be some pretence that they were covered by the letter of the article, though by a mistake common to both parties, of which a just and honorable Government would disdain to take any other advantage than that of manifesting its good faith by its cheerfulness and promptitude in rectifying the error, and fulfilling the intention instead of the letter of the engagement. But the article was not accepted in this form. In the counter-projet, delivered by me on the 13th of February, the grants prior to the 24th of January, 1818, the conditions of which should have been performed by the grantees, and none other, were declared to be confirmed. At the time that the counter-projet was received by Mr. Onís, he was confined to his house by indisposition; at his request, the communications between him and me were made by the friendly interposition of the French Minister, M. Hyde de Neuville. Mr. Onís insisted on the article concerning the grants as drawn up by him, not for the purpose of covering these grants, for he professed an earnest desire that they should be annulled, for the vindication of his own character from the aspersion which had been circulated here, that he had a personal interest in them; but he had drawn the article in these terms merely to save the honor of the King. It was then observed that the honor of the King could be saved by declaring the grants prior to the 24th January, 1818, binding to the same extent as they would have been upon the Spanish Government if the cession to the United States had not been made. It was known and admitted that neither of those grants would, in that case, have been valid, because the conditions, by the laws of the Indies, indispensable to their validity, neither had been, nor could be, fulfilled by the grantees; and their non-performance had been formally assigned by Mr. Onís, in his letter to me of November 16, 1818, as his reason for agreeing to their being annulled. But

he observed that there were grants of old standing, made *bona fide* to persons in actual possession of the lands, and having made improvements and settlements upon them, but who, by the late revolutions in Europe, and the convulsed state of Spain, had been prevented from completing all the conditions of their grants; that it would be but equitable to allow them time from the date of the treaty to fulfil them. To this a ready assent was given, and the article was thus agreed to—limiting to such grants alone the confirmation prior to the 24th of January, 1818.

Minutes of the discussion upon this article were drawn up in writing, at the time, by Mr. De Neuville, copies of which were furnished both to Mr. Onís and to me prior to the signature, and recognised by us both to be correct. An abstract from them of all that relates to this article, together with the draught of the article as first proposed by Mr. Onís, of that in our counter-projet, and of the article as finally agreed to, is herewith enclosed. They will show that the confirmation of the grants to Alagon, Punon Rostro, and Vargas, is as effectually excluded by the limitations in the first part of the article, if their date is prior to the 24th of January, 1818, as by the date itself if made subsequent to that time. They were not excluded by name for two reasons: First, conformably to the desire of Mr. Onís to save the honor of the King. You will see this distinctly noted in the minutes of Mr. De Neuville. Secondly, because, from the despatches of Mr. Erving, it was supposed there were other grants of the same kind, and made under similar circumstances. To have named them might have left room for a presumptive inference in favor of others. The determination was to exclude them all.

No reliance was placed upon the exclusion by the date, because the grants having been secretly made, and without the usual formalities, the copies of them received by Mr. Erving might be unauthentic; because no copy of the grant to Alagon had been received; and because, if fraud was to be guarded against, it was well known that antedating was one of its most familiar and favorite expedients. When, shortly after the signature of the treaty, a rumor was circulated here that the date of the grants was one day prior to the 24th of January, 1818, and that this last date had been assumed with the intention, at least on the part of Mr. Onís, that they should be confirmed, without admitting the suspicion that he had attempted a deception for which the language of decency has no name, it was yet thought advisable that no shadow of a pretence should by any possibility be raised after the ratification of the treaty, by Spain or the grantees, that those grants were confirmed, or that either party of the compact had understood that they would be by the article as it stood. You were therefore instructed, on exchanging the ratifications, to deliver a declaration of this construction, which it had been the avowed intention of both parties at the signature that the eighth article should bear in relation to the grants in question, and the only one which the United States should ever admit. Mr. Onís, by his answer to

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my note of the 10th March, unequivocally recognised that such had been his understanding of the import of the article when he signed it. He added, indeed, that, if he had known that the grants were of a prior date, he should have insisted upon their being confirmed. But, without remarking that his ignorance of their dates could have no possible effect to render valid that which he had agreed and understood to be null and void, it had escaped his recollection that, in his note to me of the 16th November, 1818, he had agreed that these grants should all be annulled, because their conditions had not been fulfilled by the grantees. The President of the United States is yet willing to accept of the ratification of that treaty by Spain. It settles important interests; it secures pacific and harmonious relations with Spain; it provides indemnities to many of our citizens for injuries which Spain acknowledges they have suffered from her; and it gives us Florida, a land useless and expensive to Spain, though, chiefly by its position, valuable to us. But, for all these advantages, we know that we have given in the same treaty ample and generous equivalent to Spain, and she will find herself much deceived if, in the hope of making hereafter a better bargain, she now disdains them. To possess Florida, with the full and fair consent of Spain, is undoubtedly an object of interest to the American Government; but an object of infinitely deeper and dearer interest to them is to observe towards Spain, and all other nations, a just and candid and single-hearted course of conduct, free from fraud, artifice, or disguise; and that which they observe, they demand in return. They will neither themselves practise, nor from others submit to, a disingenuous, double-dealing system of treachery, paltering with its own engagements, and spreading snares for the generous confidence of good faith.

You will, therefore, on no consideration, exchange the ratifications without delivering the declaration prescribed by your instructions when you took charge of the treaty; and you will not fail, if the ratification be withheld, to address an earnest remonstrance to the Spanish Government against the grants themselves, and the circumstances under which they were issued.

The proposal of Mr. Onís's letter to this department, of the 31st October, 1818, was as follows: "That the late grants made by His Majesty in the Floridas, since the 24th of January last, the date of my first note announcing His Majesty's willingness to cede them to the United States, (the said grants having been made with a view to promote population, cultivation, and industry, and not with that of alienating them,) shall be declared null and void, in consideration of the grantees not having complied with the essential conditions of the cessions, as has been the fact." And in his letter of the 10th March, referring to this proposal, he says: "With the frankness and good faith which have uniformly actuated my conduct, and which distinguish the character of the Spanish nation, I have to declare to you, sir, that when I proposed the revocation of all the grants made subsequently to the date above mentioned, it

was with the full belief that it comprehended those made to the Duke of Alagon, as well as any others which had been stipulated at that period." Here, then, is the express declaration of the Spanish negotiator of that treaty: 1st. That the grants in question were all, in his full belief when he made the proposal, included among those positively annulled by the date; 2d. That these grants had been made by the King, with a view of promoting population, cultivation, and industry, and not with that of alienating the territory; and 3d. That the grants were all null and void, because the grantees had not complied with the essential conditions of the grants.

Now, what shall be said after these plain and positive declarations, when Spain advances, as the only ground of pretence, that these grants were confirmed by the treaty; that they were dated before the 24th of January, 1818, indeed, but after the instructions by which Mr. Onís was authorized to make his proposal of that date for the cession of the Floridas had been despatched to him from Madrid? What becomes of his positive assurance that these grants were made for the population and improvement of the territory, and not with a view of alienation? And what was the meaning of Spain in stipulating that an acknowledged debt of indemnities from her to citizens of the United States, at least to the amount of \$5,000,000, should be paid from the proceeds of public lands in Florida, when she now comes and says that even while her Minister was signing this compact on her part, his Sovereign, by a secret and irregular alienation of the lands, had made its accomplishment impossible? In whatever other light it is to be considered, it is an injury to the United States, for which they are entitled to demand and obtain satisfaction. When the Government of a nation degrades itself by flagrant and notorious perfidy, those who are constrained to entertain political relations of neighborhood with them are justified by the law of nature, and it is their duty to themselves, in subsequent transactions with such a State, to take pledges of security for the performance of its engagements more effectual than confidence in its good faith. Such pledges are amply within the reach of the United States in their intercourse hereafter with Spain; nor is it to be presumed that those who are intrusted with the maintenance of the rights and interests of this nation will overlook or neglect the duty which may be devolved upon them of taking them.

This despatch will be delivered to you by Captain Read, of the Hornet. If the ultimate decision of the Spanish Government upon the treaty should be still pending on his arrival at Madrid, you will demand it immediately, giving notice that a delay of more than one week after your communication will be taken as a refusal. At the expiration of that time, or sooner if the decision be made known sooner to you, you will despatch Captain Read, that his return to this place may, with all confidence, be expected by the 20th of November. Should the ratifications be exchanged, your leave of absence, contemplated

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when you left this country, may be used at your discretion; but, if not, the President thinks it best that you should remain at Madrid, to await the contingency of events upon the meeting of Congress.

I am, very respectfully, &c.,

JOHN QUINCY ADAMS.

JOHN FORSYTH, Esq., Minister, &c.

*Don Manuel Gonzales Salmon to Mr. Forsyth.*

PALACE, August 19, 1819.

SIR: I have received the note you were pleased to address to me of the 12th instant, in answer to that which I had the honor to write to you on the 10th, announcing the decision which the King, my master, had judged proper to adopt in relation to the treaty concluded at Washington between the Government of Spain and the United States.

In that note you begin by endeavoring to justify the meaning of the expressions contained in yours of the 21st June, which, however, appear not the less extraordinary and surprising, as I have already intimated to you. But, on this head, I refer to what I have had the honor to express to you in my said note, by which the question will be considered as put at rest, and that on no account will it be agreeable to revive it.

I therefore proceed at once to reply to the leading object of your note; and I flatter myself that my answer will convince you, on the one hand, that the Government of His Catholic Majesty could not observe a course different from that which it has taken on this occasion; and, on the other hand, that the determination of His Majesty to adopt that course is founded upon his earnest wish, as I have already stated to you, to establish the amicable relations of both our Governments upon a secure and permanent basis.

It is a fact of general notoriety, and must, therefore, be well known to you, that, as soon as the treaty concluded between His Catholic Majesty and the Government of the United States was received here, and its stipulations become known, this important subject was taken into the most serious consideration by the King, my master, as well to examine its provisions minutely as to investigate the consequences to which it might give rise in relation to your Government. From that time this important business has almost exclusively occupied the attention of the Spanish Cabinet; and it was not until after it had received the most mature deliberation that His Catholic Majesty resolved that no final decision could be taken upon it, without previously entering into various explanations and *eclaircissemens* with the Government of the United States of America.

Any other determination which might have been taken previous to this step would have been, to say the least, precipitate, and exposed to the inconveniences which it is wished to avoid; and especially not to leave the relations of good understanding re-established between both nations liable to interpretations, but to place them on solid and stable principles, as permanent as the sincere and perfect friendship and harmony which it is

desired to establish between the two Governments.

The explanations and *eclaircissemens* desired by His Majesty before a definitive resolution could be taken by him on the affair in question, are not of a nature to be obtained by the means of a messenger despatched to the United States, and the answer to which could arrive here before the 22d of the present month; and still less by reason of the retreat of the Minister Plenipotentiary of His Catholic Majesty, who, having made the treaty, and being thoroughly possessed of the whole course of the negotiation, was best qualified to demand the explanations desired. Besides, it having been the uniform wish of His Catholic Majesty to proceed with all possible care and circumspection in an affair of such moment, and having thus investigated it, as I have before stated to you, this circumstance could not have given occasion for the despatch of the messenger as intimated by you.

Nor could the explanations alluded to be entered into here under existing circumstances, on account of the want of time in the short space proposed by you. His Majesty has, therefore, resolved to appoint a confidential person to proceed to the Government of the United States for the purpose of obtaining them; thereby giving a new proof of his deference for the American Government, by his desire to be thoroughly informed of every thing which has passed in relation to the treaty.

It is true that, when this determination which the King, my master, has been pleased to take in relation to this affair will come to the knowledge of your Government, the epoch of the 22d August will have elapsed; but this circumstance need prove no obstacle to the obtaining the requisite explanations and *eclaircissemens* on the treaty, as it is to be supposed that the American Government would readily have afforded them at an earlier period if the circumstances before pointed out had not prevented their being required immediately.

The communication which I had the honor to make to you on the 10th instant, and which could not have been made sooner, has been realized in due time; and certainly the Government of the United States cannot fail to receive it favorably, if their desires, in conformity with those of His Catholic Majesty, are directed to the auspicious object of seeing the differences which existed between both Governments at once terminated, and their amicable relations consolidated upon a firm and permanent basis.

This being the sole object proposed by His Catholic Majesty, he has judged that, in order to attain it, there was no mode more fit and suitable than to investigate and explain before he gave his sanction to an agreement which is to serve as a basis of the future relations between the two Powers, whatever doubts and elucidations it might have given rise to. He has, therefore, determined to despatch to the seat of the American Government a person charged with stating to it frankly and candidly the wishes of the King, my master, which he flatters himself will be fully accomplished if he is met by similar dispositions, which it appears

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must be the case if your Government cherish the same sentiments by which His Majesty is animated.

In consequence of what I have herein stated, I trust that you will agree with me that the Government of the King, my master, has proceeded in this affair with all prudence and circumspection; that it has not been possible for it to take a decision upon it until it had previously instituted a full investigation, without being exposed to the hazards of a precipitate determination; and, finally, that the resolution of His Catholic Majesty, far from being liable to an unfavorable interpretation, is the most conducive to promote the principle connected with this affair, and the most likely to regulate in a satisfactory manner, while it, at the same time, reconciles the interests of both nations.

In this persuasion, I cannot but flatter myself that your communications to your Government will accord with this sentiment, and that they will tend to remove any doubtful interpretation that it might give to the determination adopted by His Catholic Majesty, and which I have already had the honor to communicate to you.

I avail myself with pleasure of this renewed occasion to offer you the assurances of my high and particular consideration. God preserve you many years.

M. GONZALES SALMON.

*Mr. Forsyth to Don Manuel G. Salmon.*

MADRID, August 21, 1819.

The undersigned, Minister Plenipotentiary of the United States near His Catholic Majesty, perceives with regret, but without surprise, from Sr. Don Manuel Gonzales Salmon's note of the 19th instant, that the determination made by the Government of Spain not to ratify the convention of the 22d February, signed at Washington by Mr. Adams and the Chevalier de Onis, will not be changed. The undersigned will not waste his own time, nor encroach upon that of His Majesty's Government, by any observations on the said note, but will proceed to discharge the only duty which, on this subject, remains for him to perform. He has the honor formally to announce that, after the 22d day of the present month, as the ratifications of the convention of the 22d February will not have been exchanged, all the claims and pretensions of the United States, which, with the spirit of moderation, the love of peace, and the delusive expectation that all causes of difference and dispute with Spain would be thereby adjusted and settled, they consented to modify or waive, will stand in the same situation as if that convention had never been made; that the United States will hold themselves free to press and enforce them in any and every mode consistent with honor that their interest may require. On the extraordinary steps taken by His Majesty's Government in this affair, the undersigned will not remark, lest he should forget that respect which is due to the Government near which, as the representative of another, he is sent to reside. Of the rumors that prevailed on this subject before the decision of

His Majesty's Government was known, (a decision he could not anticipate), the Minister of the United States expressed himself in terms sufficiently strong. As the recent determination has proved that there was but too much truth in what he believed to be unfounded reports and gross calumnies, the undersigned must leave it to His Majesty's Government, upon whom that obligation rests, to show upon what grounds that determination is reconcilable to honor and good faith. The undersigned laments that, while communicating to his own country this unexpected result, it is not in his power to unfold the train of reasoning by which His Majesty's Government has been deluded into a belief that the course taken could be followed without serious injury to the reputation of Spain. The United States, after waiting more than twenty years, with a patience and forbearance unexampled, the operations of reason and justice upon the councils of Spain, will see with astonishment this new instance of her apparent disregard to both. The Minister of the United States, when transmitting his correspondence with His Majesty's Government to his own country, will not omit to state the assurances verbally given to him of His Catholic Majesty's earnest desire to cultivate the good-will of the United States—unfruitful professions, that cannot but produce all the effect they deserve, and all that could be rationally expected from them.

The undersigned renews to Sr. Don Manuel Gonzales Salmon the assurances of his perfect consideration and respect.

JOHN FORSYTH.

Sr. DON M. GONZALEZ SALMON, &c.

*Extracts of a letter from Mr. Forsyth (marked private) to Mr. Adams, dated*

MADRID, August 22, 1819.

The duplicates of my despatches by the Hornet not having been forwarded before this, I deem it unnecessary to send you the extract of that part of my private journal, a copy of which was transmitted with my former letters. To the information contained in my official letter of this day's date, I have little to add of much importance. The most interesting fact I am able to communicate is, that the affair of the grants is not the sole or the principal difficulty with this Government. After receiving Mr. Salmon's note of the 10th instant, and ascertaining from Duke Laval that this Government expected me to insist on the King's agreeing to receive Mr. Onis's declaration, or to make one of his own, I gave information to the Duke, with the expectation and belief that he would communicate to the Government, and to the parties interested, that this was a mistake. I had no instructions to insist upon either. We expected the King might offer it; but if he did not, the treaty was already ratified by the United States, and the act could not be recalled. To produce a good effect, I said, also, that the mistake about the grants must be corrected, if the business should be (what was altogether improbable) settled amicably in the United States. The only

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hope of the grantees was, to have the exchange of ratifications made here. Relying upon the correctness of the information received here of the date of Puno Rostro's and Alagon's grant, and the opinion that the cedula was the first valid act of the concession, and, of course, the date of the grant must be the date of the cedula, I intimated to Mr. Salmon that the difficulty in regard to the donations could be obviated here. His reply was, that there were other points upon which the King wished explanations. What these are, I have collected from other sources. The first and great object in view is to procure an assurance that we will not recognise Buenos Ayres, &c. The extreme pertinacity and anxiety on this subject has its origin in the disclosure made by Great Britain of the conversations between Mr. Rush and Lord Castlereagh on the contemplated reception of a Consul General, to reside officially in the United States, from the provinces of La Plata. This disclosure has done us no good. Sir Henry Wellesley, to whom, on his stating that he was endeavoring to promote our objects here, I remarked that I considered much of the difficulty of our affair was imputable to this cause, gave a very plausible answer; of its truth I am sceptical. He said the object was to show to Spain the absolute necessity of a settlement of our differences with her. Whatever was the motive, the effect has not been happy. The instructions to Onís were given before this disclosure was made; it was not useful in producing those instructions; and it is equally clear, from the conduct of Spain, that it has not had the effect of inducing her to ratify what her Minister, under these instructions, promised in her name. Sir Henry Wellesley has at all times held very reasonable language, and friendly, in relation to this affair; and, since the above conversation, he has certainly taken some pains to promote our wishes. He tells me that he sent a message by a confidential agent to the Duke of Infantado, who had urged the argument that Great Britain ought not to be irritated by the cession of Florida to us; that he was entirely mistaken in supposing Great Britain adverse to the ratification of the convention, and that he had directions from the British Ministry to press the ratification. He told Salmon that Spain would hazard much by refusing it, and that the objects he had in view could be better accomplished by ratifying immediately. After the determination of this Government was known, (and it was known immediately,) he conversed with me, and wished me to believe that it was all imputable to the dispute about the grants. I said this could not be, as the Government must know that the King, having it in his power to accept or reject Onís's declaration, he could throw upon us the burden of refusing the exchange of ratifications. He then asked if the affair of the grants could be got over here. For the reasons stated in the first part of this letter for my disclosures to Laval and Salmon, and believing myself justified by my instructions after the receipt of the letter of the 10th of August, I replied I was confident they could be. He proposed to me to permit him to engage Tatischeff, the Russian Minister,

whose influence and means of communicating with the Government are said to be superior to all the rest of the *corps diplomatique*, to have this suggestion communicated to the King. To this I consented; but as I thought it would be better, if Tatischeff did any thing, to procure his good offices by an immediate application, I apprized him of this conversation. He was very friendly in his expressions, personally believed the ratification necessary and proper for Spain, and certainly the policy of Europe required it to be done. Sir Henry and Tatischeff had a similar conversation, and the suggestion was made. The next time I saw the Russian Minister, he said, If you can give assurances that there will be no recognition of the South American Governments, the treaty will be ratified. I replied, if that is the case, there will be no ratification. I had previously furnished Duke Laval with a memorandum on this topic, which, after keeping twenty-four hours, and, I have no doubt, showing it to Lozano Torres, who is supreme here, he returned it to me. The substance of it was, that the system of the Government was an impartial neutrality; it had been adhered to when we had, in our differences with Spain, the most powerful inducements to abandon it; that, when these differences were settled, there could be no inducement to change it. If Spain desired us to remain stationary in the dispute with her colonies, the first step to secure her object was to ratify our treaty, then to consult our wishes, and so to shape her policy as to inspire a sentiment of goodwill powerful enough to counteract the propensities naturally entertained for the people of South America by the people of the United States. This was the rational mode, and, in fact, the only mode of reaching her point. To refuse our treaty, and ask, as a condition of it, that we would not recognise, was the certain way to disappoint their wishes. The Government would not consider such a proposition. This memorandum I showed to Tatischeff. He said, what it contained was true and just, but there was no reasoning with ignorance and presumption. I did not hold any of these conversations until after the note of the 10th was received; and I was careful to express the desire that these gentlemen should do what was done, not with a view to our interest, but to prevent Spain from injuring herself, and endangering what is termed the pacific policy of Europe.

On the whole, I am impressed with a belief that they will propose to exchange ratifications in Washington, with the insertion of a promise not to recognise the Patriot Governments, and to preserve the grants. The latter will be a dernier resort, given up as the price of the first. Without this, or something equivalent, we may do ourselves justice; they will not.

*Mr. Forsyth to the Duke of San Fernando.*

MADRID, October 2, 1819.

SIR: The Government of the United States, having been prepared to expect the possibility of a failure on the part of Spain to ratify the convention of the 22d of February last, by the extraor-

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dinary delay to decide upon this subject, and the determination of the King further to postpone that decision, as communicated in the note of Mr. Salmon to me of the 19th of June, have instructed me, should the final decision on it by the King not be made prior to this time, to inform the Government of His Catholic Majesty that, although the six months stipulated in the treaty, within which the ratifications were to be exchanged, have expired, the ratification of Spain, made with the explicit understanding that the large grants of land in Florida to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, and all others made under similar circumstances, are, by the eighth article of that convention, null and void, and will be so held by the United States, will be accepted as valid; and I am authorized to receive the Spanish ratification for that of the United States, provided this exchange shall be immediate. This exchange must take place soon enough to enable me to send the ratified treaty to the United States by Captain Read, of the sloop of war *Hornet*, of the Navy of the United States, who will remain in Madrid ten days to carry to the President the final determination of Spain on this subject. Having received from your Excellency's predecessors in office no explanation of the particular causes of the delay that has taken place, it is in my power only to explain the reasons which induce the Government of the United States to insist upon an explicit understanding of the force and obligation of the eighth article of the treaty prior to the exchange of ratifications—an understanding which will be fully shown by a declaration I am instructed to present at the time of the exchange, should it ever take place, a copy of which is enclosed. It was rumored in the United States, and, since my residence in Madrid, I have been informed, that the large grantees declare that their grants are valid under the eighth article. It has been asserted, with the strongest appearances of truth, that the determination of the Government of the United States to hold them void, as expressed in the letter of Mr. Adams, the Secretary of State, to Mr. Onis, of the 10th of March, 1819, has been one of the chief causes of the extraordinary delay to decide upon the ratification of the instrument in Spain. It is necessary to the honor and the interest of the United States, whose conduct to Spain and to all nations is governed by frankness and justice, free from fraud, artifice, and disguise, which they will never practise, nor from others submit to a disingenuous, double-dealing system of treachery, paltering with its own engagements, and spreading snares for the generous confidence of good faith, to place this subject beyond the reach of difficulty or doubt. Without knowing, therefore, the dates of the respective grants alluded to, and supposing it barely possible that there is a foundation for a pretension of the grantees under the eighth article, the Government directs me to present the declaration in question, not less essential to its own interest than to the honor of the King of Spain, since His Majesty would be subjected to the most unworthy imputations if, under the circumstances, a claim should

be made by his subjects, or those holding under them, founded upon the alleged validity of these grants.

To suppose that your Excellency is not in possession of all the facts in relation to this subject, would be a reflection on the zeal and fidelity of the representative of Spain in the United States, which I would be unwilling to cast upon any officer of His Majesty's Government. I do not, therefore, send you copies of those documents, which show explicitly that, prior and subsequent to the signature of the treaty, it was expressly understood by the negotiators of that instrument that the eighth article, written by the Spanish Minister himself, excluded these grants. In fact, when the lands of Florida were ceded, with an express stipulation that the claims of the citizens of the United States upon Spain were to be paid out of the proceeds of the sale of them, to suppose that the Spanish Government had disposed of the whole or the greater part of them in gifts to its subjects, and will insist upon the validity of those gifts, is to suppose it capable of an act of notorious and deliberate perfidy. The Government of my country considered that the treaty became, from the moment of its signature by the Chevalier de Onis, and the ratification of the United States, as binding upon the honor and good faith of the Spanish King and nation as it would be after the ratification. Although I do not understand that this position is, or will be, contested by Spain, it may not be useless to show its strength fully to the view of your Excellency. The words of His Catholic Majesty, in the full power given to Mr. Onis, the original of which was delivered to the American Government before the signature of the treaty, are, after authorizing Mr. Onis to treat, negotiate, and conclude a treaty, whereby past differences may be adjusted, and a firm and lasting peace established between the two Governments: "*Obligandonos y prometemos, en fe y palabra de Rey, que aprobaremos, ratificaremos, cumpliremos, y haremos observar y cumplir inviolablemente quanto por vos fuere estipulado y firmado; para lo qual os concedo todas las facultades y plenos poderes en la forma mas amplia que de derecho se requieren.*" If the usage of nations, which requires the ratification of the sovereign for the full confirmation of a treaty, could create any doubt of the import of language so unqualified and explicit, there is nothing dubious or uncertain in the extent of the obligation resting upon him by the signature of his Minister, vested with such full powers. Upon this principle, the following quotations from Vattel and Martens are decisive authorities: "Sovereigns treat together by the agency of their attorneys or their mandatories, clothed with sufficient powers; they are commonly called Plenipotentiaries. All the rules of the law of nature, concerning things performed by commission, are here applicable. The rights of the agent are defined by the authority given to him. From this he must not depart; but whatever he promises within the terms of his commission, and according to the extent of his powers, is binding upon his constituent." "At this time, to avoid all dan-



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ger and difficulty, Princes reserve to themselves the right of ratifying that which has been concluded by their Ministers in their name. The full power is merely a commission, *cum libera*. If this commission were to have its full effect, it should be given with the utmost circumspection; but, as Princes can be constrained to fulfil their obligations only by force of arms, the custom has arisen of relying upon their treaties only after they have sanctioned and ratified them. Whatever the Minister has concluded remaining ineffectual until the ratification of the Prince, there is less danger in giving him a full power. But to refuse, with honor, to ratify that which has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it, and, particularly, he must show that his Minister transcended his instructions."—*Vattel*, book 2, chap. 12, § 156.

"Every thing that has been stipulated by an agent, in conformity to his full powers, ought to become obligatory for the State from the moment of signing, without ever waiting for the ratification. However, not to expose a State to the errors of a single person, it is now become a general maxim that public conventions do not become obligatory until ratified. The motive of this custom clearly proves that the ratification can never be refused with justice, except when he who is charged with the negotiation, keeping within the extent of his public full powers, has gone beyond his secret instructions, and consequently rendered himself liable to punishment, or when the other party refuses to ratify."—*Martens's Summary*, book 2, chap. 3. But why should quotations be made to prove a principle so familiar to every man in public or private life, that what is promised in his name, by his authority, and according to his directions, is as binding in honor and conscience as if he had pledged himself in person? The obligation of the King of Spain, therefore, in honor and in justice, to ratify the treaty signed by his Minister, is as perfect and unqualified as his royal promise in the full power, and it gives to the United States the right, equally perfect, to compel the performance of that promise. It is well known to my Government that the Spanish Government cannot allege that its Minister transcended his secret instructions, or that the ratification of the United States has been refused, or that any unfair advantage was taken by the United States in the negotiation, or that Spain was not well aware beforehand of the full extent of the engagements contracted by Mr. Onís. It is too well known to be denied that the last instructions of Mr. Onís authorized him to concede much more than he did. The Government of the United States, indeed, considered the generosity and moderation of the terms to which they had acceded as a pledge that they would be received, as in the first instance they were received, by His Catholic Majesty and his royal council with pride and joy. If, from the unexpected extent of the sacrifices the United States made for the purposes of conciliation, the conclusion has been drawn that their conciliatory temper may be trifled with and abused, it is just and proper that Spain should be effectually unde-

ceived. I am, therefore, instructed further to inform your Excellency that, if the ratified copy of the treaty should not arrive in the United States before the first day on which the Congress of the United States meets, the President will lay before that body all the transactions relating to the treaty, and such measures will be adopted by the competent authority as the exigency of the case may require. Whatever may be determined upon, Spain will be responsible to the United States for all damages and expenses which may arise from the delay to ratify, and from the measures to which the United States may resort to give efficacy to their rights, and that, for the indemnities to which they will be justly entitled by this violation of faith by Spain, the United States will look to the territory west of their present western boundary on the Gulf of Mexico.

To this proposal, made in the spirit of moderation, of generous forbearance, and with the earnest desire of sincere amity with Spain, I am instructed to require an immediate, explicit, and unequivocal reply. Should this reply not be made before the 10th of the current month, I give formal notice to your Excellency that the proposal will be considered as rejected, and the proper communication will be made to the President of the United States.

I renew to your Excellency, whom may God preserve, the assurances of my distinguished consideration.

JOHN FORSYTH.

DUKE OF SAN FERNANDO AND QUIROGA.

*Duke of San Fernando and Quiroga to Mr. Forsyth.*  
PALACE, October 8, 1819.

SIR: Having had the honor to lay before the King, my master, the contents of the note which you addressed to me on the 2d instant, His Majesty, whose justice and impartiality are so universally known, having examined the principal points embraced therein, has commanded me to answer you as follows:

The official communications addressed to you by Don Manuel Gonzales Salmon might exempt me, it would seem, from all further discussion of the subject in question; inasmuch as His Majesty, actuated as well by the claims of his honor and duty as by a uniform spirit of justice and conciliation towards the United States, and pursuing the example of his august predecessors, who, at an early period, and to promote the very establishment of the American Government, gave such abundant proofs of similar dispositions, had determined, upon mature reflection and deliberation, to send a Minister to that Government, who, after requiring and giving the necessary explanations, might terminate this affair; and as neither the actual state of the question, nor what you have been pleased to communicate to me, presents any motive for changing a resolution so deliberate and so just, and which the honor of His Majesty also forbids, there appears to be a still more urgent motive to confirm it.

With this answer I might leave you completely satisfied; but I especially take leave, with the permission of the King, my lord, to reply to some of

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the points treated of in your note with the brevity and precision which characterize me; and because you state that you have not yet received an explanation of the delay in ratifying the treaty, and attribute it to the difficulties arising out of its eighth article. You will permit me to remark to you that this delay does not manifest that want of good faith, or the artifice which is indirectly insinuated; it is rather the declaration now demanded by you, and previously announced by your Government, after having signed and ratified the treaty—a declaration which, by annulling one of its most clear, express, and conclusive articles, seemed much more likely to give room for a similar charge in opposition to yours.

If your Government, as you are pleased to state to me, really believed that the treaty, from the moment it was signed, became equally obligatory on Spain as it was on the United States, under whose immediate inspection it was formed, signed, and ratified, you will permit me to remark that, whether we consider that point, or weigh the authority of authors cited by you in support of your opinion, the deductions from them, and the weight of many others I now forbear to adduce, as it might seem to offend your illustration, militate against you. But even fancying them for a moment, without ever admitting them, the very authorities which you deem conclusive in relation to a treaty signed but not ratified, are opposed to you, or require still more forcibly that an agreement concluded, signed, and solemnly ratified, as the present one has been by your Government, should be subjected to a due investigation. And if, notwithstanding this, declarations are required at the moment of its solemn conclusion, and before its ratification by the other party, which totally annul one of its most clear, precise, and conclusive articles, without the sanction of a secret agreement authorizing the same, how should it appear strange that His Majesty, while yet unfettered by its stipulations, might and should demand explanations rendered necessary by so unlooked-for a proceeding? In the transaction of settlements or agreements between nation and nation, the solemn act which consummates them, namely, the ratification, would become wholly illusory, if the principles which it is now in vain attempted to establish were to be admitted. I again repeat, that the very authorities cited by you literally declare, as I have already remarked, that the sovereign, for strong and solid reasons, or if his Minister has exceeded his instructions, may refuse his ratification, [*Vattel, lib. 2, cap. 12,*] and that public treaties are not obligatory until ratified.—[*Martens, lib. 2, cap. 3. See note.*]

No less erroneous, and even unprecedented, is the judgment or consequence you draw from the instructions which you suppose to have been given to His Majesty's Minister for the conclusion of this treaty. Truly it would be the first time that a diplomatic communication, professing to be thoroughly and minutely acquainted with these instructions, should cite them as being perfectly well known. The respect due to the King's negotiators will not for a moment allow me to be-

lieve they have failed in their obligations, by violating secrecy; nor will the high consideration I entertain for your Government permit me to think it capable of having employed the oblique and vicious means that such information must imply. It is, therefore, wholly impossible for me to admit your assertion on this point.

But, dismissing so unpleasant a discussion, and desiring to express to you anew the spirit of conciliation and friendship which prompts the King, my master, to put an end to these differences, as I declared to you in the beginning of this note, I am enabled to assure you that it is a subject of great regret to His Majesty that such weighty considerations should have hitherto obliged him to defer the ratification of the treaty concluded by his Minister to the Federal Government. These considerations, already stated by Don Manuel Gonzales Salmon on communicating to you His Majesty's determination, acquire additional force when we find that intelligence has been received, through the medium of general information, newspapers, and correspondence, that an expedition directed against the province of Texas has been tolerated or protected, and other acts committed within the limited but unexpired term assigned for the ratification, which, as you will be duly informed, have justly called for the remonstrances of His Majesty's Chargé d'Affaires to your Government. Notwithstanding His Majesty has uniformly evinced a desire to maintain a perfect union and amity with the American Government, yet, to render these stable and permanent between two nations who, under favor of a state of amity, are endeavoring to settle their differences, it is necessary they should be based upon reciprocal utility and confidence. In the indulgence of these noble and generous sentiments, His Majesty confidently looks to the attainment of this desirable result. This was the object of the treaty—an object unfortunately not attained, notwithstanding the enormous sacrifices which the King, my master, condescended to make. In these feelings and dispositions His Majesty still perseveres, by adopting a measure judged indispensable—that of sending to the Government of the United States, as will promptly be done, a person possessing his entire confidence, and who, by smoothing the obstacles or removing the difficulties which have hitherto opposed the accomplishment of his beneficent intentions, may fully convince the Federal Government of the frankness and loyalty, as well as of the honor and dignity, which it is His Majesty's desire to maintain in his relations of amity and union with that Government.

Whereupon, I renew to you my sincere respects, and I pray God to preserve you many years.

SAN FERNANDO Y QUIROGA.

To the MINISTER of the United States.

*Extract of a letter of Mr. Forsyth to the Secretary of State, dated*

MADRID, October 10, 1819.

Captain Read reached Cadiz on the 17th instant. The condition of that dreadfully afflicted

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place, and the neighboring towns, obliged him, after remaining some hours in the bay, to go to Gibraltar. From Gibraltar he made his way, with some difficulty, to Santa Cruz, one hundred miles from Madrid. From Santa Cruz, I received information that he was stopped there. I applied immediately to the Secretary of State for permission for him to pursue his journey. I directed Mr. Brent, who went to see the Duke of San Fernando, to say that if the permission to Captain Read could not be given, I must request a passport for myself to ride that far to confer with him. While in a very uneasy state of suspense, Captain Read arrived, and delivered me your letter of the 18th August, with duplicate of your No. 6, with the documents. Two or three hours after he reached Madrid, I was informed by the Secretary of State that he must perform at Santa Cruz a quarantine of eight or ten days. The correspondence between us will show in what manner the Captain was enabled to continue his journey; copies are enclosed, marked Nos. 6, 7, 8. On the night of the 3d, I had, preparatory to the offer to exchange the ratifications according to my instructions, a long conversation with the Duke of San Fernando. I did not discover in this interview any reasonable prospect of the immediate acceptance of the treaty. The Duke professed to be anxious to preserve a good understanding with the United States—that the King wished explanations, &c. On my asking him what would be the conduct of Spain? would the treaty be ratified if these explanations were not satisfactory? he replied, that was a point upon which his royal master had not expressed his pleasure. In the course of the conversation, he expressed the hope that my note would be couched in respectful terms; that, if it was not, I must not be surprised if it was returned to me. I told him that the note was prepared by, and according to the instructions of my Government, and, if returned to me, I should not consider the offence as personal, but as offered to the United States.

To avoid the very disagreeable consequence which must ensue, I suggested that if he found any thing harsh in the note, I would change it, if it could be done without altering its meaning or impairing its strength; but that no term could be touched which was essential to convey, substantially, what the note contained. After a very long interview, not at all satisfactory, except that it proved the good dispositions and politeness of the Secretary of State, I delivered my official note, copy marked No. 9,\* with the proposal in Spanish, marked P, that the Minister might be immediately master of what was asked and expected of the King. The answer of the Minister was delivered this afternoon. The copy of it is marked No. 10. The Spanish Government will persist in the plan of sending a Minister to ask explanations at Washington. The note of the Duke of San Fernando confirms the information already given of the points on which these explanations will be asked.

\* Communicated to Congress with the message of 7th December, 1819.

I cannot venture to conjecture what will be the conduct of this Government, should it not receive what it wishes to procure from us. In the mean time, although it is said that General Vives is named to go to Washington, it is not certain. To-morrow I shall ask for copies of the grants to Alagon, Punon Rostro, and Vargas, preparatory to the remonstrance I am directed to make, and to my reply to the note of the Duke. I hope to send you copies of the grants, and of my reply; but shall not detain Captain Read if they are not ready before he is prepared for his journey. He will leave this on Tuesday morning for Malaga, to which place the Hornet must go from Gibraltar, to take him on board, all travelling from Spain being interdicted by the governors of that fortress.

JOHN FORSYTH.

No. 6.

*Mr. Forsyth to the Duke of San Fernando and Quiroga.*

MADRID, September 30, 1819.

SIR: Captain Read, commanding the sloop of war Hornet, of the Navy of the United States, bearing despatches to me from the American Government, has been stopped on his way from Gibraltar to this place. I have the honor to apply to your Excellency for an order to the proper authority to permit him to pursue his journey. Captain Read arrived at Gibraltar on the 20th instant, his crew in good health, from the port of New York. Although the quarantine regulations at Gibraltar are at this time particularly severe, his vessel was immediately admitted to *pratique*. At St. Roque the captain received assurances from the director of posts that he would meet no difficulty in proceeding to this city. The Hornet was anchored for a few hours in the bay of Cadiz. The enclosed correspondence between the American Consul and the *junta de sanidad* will show that she had no communication with any vessel in the harbor during her short stay in the bay. Under these circumstances, I trust the order for which this application is made will be immediately given.

I seize every occasion to renew to your Excellency the assurances of my very distinguished respect.

JOHN FORSYTH.

No. 7.

*The Duke of San Fernando and Quiroga to Mr. Forsyth.*

PALACE, September 30, 1819.

SIR: Having received information from the supreme board of health, in consequence of your note of this day's date relating to the detention of Captain Read at Santa Cruz, conformably with the opinion given by the aforesaid board, and founded upon the laws enacted for the preservation of health, it is my duty to inform you that the said captain and his crew are respectively subjected to a quarantine of eight or ten days, with the requisite purification of all effects susceptible of contagion; and that, if it be your determination to go and confer with him, you may proceed to do so, on subjecting yourself to the same conditions.

I hope, therefore, that you will inform me of your

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intentions on this point, that I may transmit the necessary orders by to-morrow's mail.

I reiterate the assurances of my high consideration, and I pray God to preserve you many years.

SAN FERNANDO Y QUIROGA.

To the MINISTER of the United States.

No. 8.

*Mr. Forsyth to the Duke of San Fernando and Quiroga,  
First Minister of State, &c.*

MADRID.

SIR: Captain Read, of the Navy of the United States, with despatches from my Government, whose detention at Santa Cruz caused me to address your Excellency on the 30th September, arrived in Madrid a few hours before I had the honor to receive a reply. A short time after he was stopped at Santa Cruz he learned that the order of the junta de sanidad was directed only to the director of the posts, and prohibited only travelling with post-horses from Andalusia. As he came from Gibraltar with regular passports, there was nothing to prevent him from pursuing his journey in the private or hired conveyance in which he prosecuted it to this place. In performing his own duty, he had neither inclination nor intention to violate any of the ordinances of any of the authorities of the kingdom, nor, as far as he was informed, did he infringe upon the established regulations. I should not have thought it necessary to mention his arrival, except incidentally, had not the answer of your Excellency to my official note, in his behalf, been written under the expectation that he would be detained in quarantine eight or ten days, and had it not given also the very extraordinary intimation that I should be subjected to a similar restriction if I went to confer with him at the place to which he was restricted.

I renew to your Excellency the assurances of my high consideration.

JOHN FORSYTH.

P.

*Proposal (in Spanish) transmitted by Mr. Forsyth to the Duke of San Fernando and Quiroga, in his note dated October 10, 1819.*

Although the six months stipulated for the exchange of the ratifications of the treaty concluded between the Government of the United States and Spain, at Washington, on the 22d of February last, have expired, I am authorized by the President to make known to His Catholic Majesty that the ratification by Spain will be received as valid on the precise and express condition that the grants of land in the Floridas, made to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, and, in like manner, any others which shall have been made under similar circumstances, shall, in conformity with the eighth article of the said convention or treaty, be null and void, and shall never be admitted by the United States. The force and effect of the said article shall be shown by a declaration to be presented on the exchange of the ratifications by the American Minister,

unless His Catholic Majesty should prefer the declaration to be made by the Spanish Government. I am authorized to make the exchange immediately when this is done. It is essentially necessary that the exchange be made in season, so as to enable me to transmit the ratified treaty to the United States by Captain Read, of the national sloop of war Hornet, who will remain ten days at Madrid for the purpose of being the bearer to the President of the final decision of His Catholic Majesty on this important concern.

*Extract of a letter from Mr. Forsyth to the Secretary of State, dated*

MADRID, October 10, 1819.

The arrival of the Hornet produced a great deal of anxiety here. As soon as it was known that Captain Read was in Madrid, the Duke Laval paid me a visit to learn for what she was sent back. Anxious to apprise the Government as early as possible what we required of it, I told him what I should immediately propose, and gave him permission to communicate it to the Secretary of State if he thought proper. Before my official letter was copied, Duke Laval paid me another visit. He had seen the Secretary of State, and had promised to engage me to have a conversation with the Secretary before my note was sent in; seeing no objection to this, I kept back my note, to be delivered at our interview, which took place the ensuing night. I was led to believe that the Government might be induced to agree to the proposal I was directed to make, but was apprehensive that the manner of presenting it would form an insurmountable obstacle. With this view, I prepared the Spanish note sent with my despatch of to-day, intending to say to the Duke of San Fernando, if the proposal was accepted, that that might be considered the official note, and the other would be received again from his hands. Finding no just grounds in his conversation to believe the proposal would be acceded to, I determined to present it, as I did, as an unofficial paper for the convenience of the Minister of State. The subsequent observation that my note would be returned, if not respectfully written, satisfied me that this determination was more than judicious. This suggestion was made with as much delicacy as it could be made, and seemed to arise from the apprehension that their dignity would compel them to a step it was very obvious they would have taken with great reluctance. Indeed, when the Duke informed me that the courtesy of nations did not permit one Power to prescribe to another the time within which a thing required must be granted or refused, I began to imagine that, according to their ideas of respectful treatment, the return of the note was certain. Had it been returned, I should have had the honor of making this communication to you in person. The present Secretary of State is sincerely disposed to preserve good terms with us. The influence of the grantees is still predominant, and will, I apprehend, continue until something stronger than words is used to bring our disputes to an end. Onis has been in Madrid since the last of August,

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a private man; it is understood that the King does not impute blame to him, yet he has never been consulted in any of the several councils that have been called on the subject. The present Minister has had some informal conversation with him, but he has given neither explanation nor advice to the Government, because he has not been asked for either.

It will surprise you to be informed that there are persons about this Court who want a war with the United States. There are very many individuals who have licenses to fit out privateers; these are looking with eagerness to the chance of enriching themselves at our expense. As to the effect upon their country, that is another affair, about which they are indifferent. The maxim is almost universal here—if I am enriched, it is of no consequence how much the country is distressed.

*Extracts of a letter from the Secretary of State to Mr. Forsyth, dated*

MADRID, October 28, 1819.

"By return of the Hornet, which sailed from Malaga on the 20th, you have been informed that I applied, on the 10th instant, to the Spanish Government for copies of the large grants to Alagon, Punon Rostro, and Vargas. Receiving no answer to this application before Captain Read left Madrid, I addressed a second note on the 15th. On the 16th, I received from the Duke of San Fernando the refusal to furnish them. The whole correspondence on this subject is enclosed, marked Nos. 1, 2, 3, and 4. This refusal was as unexpected to me as it no doubt will be to you." "The best information I could procure of these donations was immediately obtained." "You will perceive that, in the remonstrance made, (according to your instructions received by the Hornet,) a copy of which is enclosed, marked No. 5, I have not made any distinction between the three grants, but examined the questions between the two Governments as if they stood on the same footing. If my idea is correct, that the royal order conveys no title, they are alike, the cédulas of the three being subsequent to the 24th January, 1818; and, as it regards the conduct of the United States, the stipulation was perfect for the exclusion of all. In addition to this, as the Spanish Government has not explained itself fully, I was not bound to know that they made any distinction between them. It may, for aught that appears, insist that Vargas's grant is valid, either from the date being different from what I suppose it to be, or on some other ground. As to the conduct of Spain, the difference of the dates of the grants, and the accidental difference of a day between the date fixed by the treaty and that of the donation of Vargas, cannot affect the conclusion drawn; while the peculiar nature of the last donation was important to show the character of the whole transaction. By the extract of your letter to Mr. Onís of the 31st October, 1818, it appears that some remonstrances were made by Mr. Erving to Mr. Pizarro about the time these donations were made. No trace of these remonstrances [is] to be found in this legation, ex-

cept a letter, marked *private*, from Mr. Pizarro, of the 19th July, in which he requests Mr. Erving not to give himself any uneasiness on the subject of these donations.

"I have already, in my No. 7, informed you that there is no copy here of Mr. Erving's correspondence with the Department of State. Not knowing the extent of his communications on that subject, I am not aware that any benefit could have been derived from them. I am told here that the proceedings in these donations were suspended for some time; that Alagon, Punon Rostro, and Vargas, were required to give up, and did surrender, their grants to the Crown; and that Punon Rostro was preparing, if he did not actually make a memorial to the King, for certain commercial privileges, as a remuneration for his loss. This information, although it came from such a quarter that I could place perfect reliance on its correctness, did not come to me in such a shape that I could use it in addressing the Spanish Government. The Court has been so fully occupied with the marriage of the King, and the distribution of the *gracias* usually bestowed on these occasions, that our affair seems to be forgotten. General Vives, who is still said to be destined for the United States as Minister Plenipotentiary, has not yet arrived in Madrid. He had a command within the limits of the country, between which and the capital intercourse was prohibited on account of the yellow fever; and it is said that he is performing quarantine, preparatory to coming to this place. I use the impersonal, for no part of the information respecting Vives, his appointment or movements, comes to me, directly or indirectly, from this Government.

"A report has been industriously circulated here that some arrangement had been made by Spain and Britain, in consequence of the probability of a war between Spain and the United States. So much was said about it, that, without giving any credit to it, I deemed it prudent to inquire into its truth. My first application was made to Sir Henry Wellesley, to whom I spoke of it jestingly, as a proof of the extravagance and folly of the suppositions and surmises of the Puerta del Sol; (the place where the news of the day is discussed by Spanish politicians.) He spoke of it in the same strain; but our conversation concluded by a most solemn assurance given, on his honor, that there was not the slightest foundation for such a report; that the only arrangement lately made with Spain related to the terms of an old contract for permission to the British Government to purchase specie in Spanish America."

No. 1.

MADRID, October 10, 1819.

John Forsyth, Minister Plenipotentiary of the United States, presents his respects to the Duke of San Fernando and Quiroga, Secretary of State and Despatch, and requests that authenticated copies of the grants to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, should be sent to him as early as the convenience of the Department of State will permit

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John Forsyth, American Minister, offers to the Duke of San Fernando, the assurances of his respectful consideration.

## No. 2.

*Mr. Forsyth to the Duke of San Fernando and Quiroga.*

MADRID, October 15, 1819.

The Minister Plenipotentiary of the United States presents his compliments to the Duke of San Fernando and Quiroga, and had the honor to request of his Excellency, on the 10th instant, copies of the grants made to the Duke of Alagon, to the Count of Punon Rostro, and to Mr. Vargas, which it is very important for him to have.

The Minister trusts that these copies will be furnished as expeditiously as possible, and renews the assurance of his distinguished respect.

## No. 3.

*The Duke of San Fernando and Quiroga to Mr. Forsyth.*

PALACE, October 15, 1819.

The Duke of San Fernando and Quiroga presents his compliments to Mr. John Forsyth, Minister Plenipotentiary of the United State of America, and has the honor to inform him that, having made known to the King, his lord, the wish of Mr. Forsyth to obtain authentic copies of the grants of land made to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, His Majesty has declared that it is not possible for him to comply with this wish without being wanting in what is due to his dignity; as he conceives that his word, alone, in the matter of the grants, is, in addition to their publicity, the most authentic certificate that can or ought to be given.

The Duke renews to the Minister Plenipotentiary his wish to be entirely devoted to him, and that God may long preserve his life.

## No. 4.

*Mr. Forsyth to the Duke of San Fernando and Quiroga.*

MADRID, October 16, 1819.

John Forsyth, the Minister Plenipotentiary of the United States of North America, presents his respects to the Duke of San Fernando and Quiroga, and acknowledges the receipt of his note of the 15th October.

The American Minister considers the refusal to furnish the copies of the grants of the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, for which he applied, as singular as the reason that is assigned for it. These donations having unfortunately produced new differences between the United States and Spain, he believed that he had a right to expect copies of them whenever an application was made to procure them. He is not aware that the royal word has been given in this business, and would now request where it is to be found, if he was confident it could be done without offending the royal dignity—a dignity so refined and ethereal as to be above the comprehension of an American Minister. His Excellency the Secretary of State and Despatch has said, individually, and by permission of the King, that the dec-

laration intended to be presented by the American Minister, if the exchange of the ratification of the convention of the 22d of February took place, contradicted the eighth article of that instrument. From this assertion an inference was to be drawn that the above-mentioned grants, or some of them, were of a date prior to the 24th January, 1818, the day named in that article of the treaty. Without failing in the respect due to the Secretary of State, and which the American Minister desires at all times to exhibit, it was important for him to ascertain whether *all* or *a part* of these grants were considered valid by Spain; whether made *prior to*, *at the time of*, or *subsequent to* the authority given to Mr. Onis to offer a cession of Florida to the United States; whether *the whole*, or only a part, and, if a part, what part of the lands in that territory was included in them—information necessary to the formation of a correct judgment of the character of this transaction. His Excellency the Duke of San Fernando and Quiroga must be sensible that copies of these grants can be obtained only from the persons owning them, or from the archives of the Indies, and that the Minister of the United States, having no right to believe that the owners would submit the original papers to his inspection, or suffer copies to be taken of them, had no resource but an application to the Government.

Not having procured the desired information from the most authentic source, he will be under the necessity of seeking it wherever it can be found; and if, in presenting this subject hereafter to His Majesty's Government, any error should be communicated, the Duke of San Fernando and Quiroga will not forget the application made for correct information, and the refusal to give it.

John Forsyth, the American Minister, reiterates to his Excellency the Duke of San Fernando and Quiroga the assurances of his profound consideration.

## No. 5.

*Mr. Forsyth to the Duke of San Fernando and Quiroga.*

MADRID, October 18, 1819.

SIR: I have had the honor to receive your Excellency's answer of the 8th instant to my official note of the 2d.

It is not with a vain hope of producing any effect upon the opinions of this Government that I refer again to this subject; a determination being deliberately made, and comporting, as your Excellency says, with the honor of the King, it will no doubt be adhered to. Time and experience are the correctors of the errors of States and Kingdoms; and the hour comes when the wisdom or imprudence of this determination will be sufficiently apparent.

Having communicated to my Government the correspondence between us, the business is at rest; but I avail myself of the opportunity offered by the performance of another duty to make some observations called for by your Excellency's note. That His Majesty should recur to the example of his predecessor in considering the subject of the convention, is perfectly natural; since, to the friendship existing between the United States and his

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ancestor, His Majesty is indebted for the possession of that territory of Florida proposed to be ceded by it; but the King is deceived and misled when he believes that the United States or any other Power can see in the recent or previous conduct of his Government the spirit of conciliation and good-will. The stubborn integrity of reason rejects all the professions that are contradicted by the actions of Princes and States. Knowing his intentions, your Excellency's royal master may consider the opinions already formed as harsh and injurious; but it is the unfortunate peculiarity of this negotiation that every thing done and left undone by Spain serves to justify them. I will not recapitulate what has been previously urged, but content myself with reminding your Excellency that two months have elapsed since I was informed by Mr. Salmon that explanations would be asked at Washington; I am still to learn to whom this duty is to be intrusted. Judging from this delay, I might, did I consider it important, ask your Excellency, Will the person in whom the King confides see the United States in the beginning or towards the end of the ensuing year?

Your Excellency has misconceived the purport of what has been urged in regard to the obligation imposed by the signature of his Minister to the treaty on the King. You suppose it to be directed to the obligation to execute the treaty; it was directed to the obligation to ratify it. Nothing is more clear than the obligation imposed in this case by justice and honor. What is extraordinary in your Excellency's answer is, the supposition that the United States are bound by the treaty, while Spain is at liberty, and according to circumstances, to bind herself or not. The United States were bound until the 22d of August last; beyond that period the question of the treaty is as open to my Government as that of your Excellency's royal master. The offer made to accept the ratification of Spain as valid since that period was altogether gratuitous, and sprung from motives, it would appear, not duly appreciated or understood. It is true the Government of the United States has an alternative to choose: the treaty may be considered as binding on both the parties to it, and an attempt made to compel a performance; or a resort may be had to the original claims, and an exertion made to enforce them.

Your Excellency supposes it impossible that the assertion that Mr. Onís did not exceed his secret instructions can be made good. If the production of a copy of those instructions were necessary to show the correctness of such an assertion, certainly it could not be shown; but there is a species of moral demonstration of the terms of secret instructions which is sufficiently strong to satisfy the judgments of men, without the necessity of calling in question the integrity of negotiators or the purity of Governments. Abundant materials for the demonstration of this assertion exist, and will be used whenever it shall be necessary. To the number of these your Excellency has furnished an additional one, of conclusive force, by resting your observation not upon the fact that the secret

instructions were violated, but upon the impossibility of producing proof that they were not.

Your Excellency errs in supposing me acquainted with the reclamations made by His Majesty's Chargé d'Affaires in America, or with the incursions into the territory of Texas—incursions neither protected nor tolerated by my Government; and, if they have been made, were secretly prepared and executed before it was practicable for it to interfere. As they could have no possible connexion with the question of ratification, they have not been communicated to me by the Government of the United States. Neither of these, however, can justify the delay that has taken place, since the power of His Majesty to require, and the inclination and ability of the United States to make, reparation for any injuries done to Spain would not have been affected by the ratification of the treaty. It may not, however, be useless to suggest to His Majesty's Government that the failure to ratify by Spain has deprived her of the right to expect reparation for any incursion into Texas, as a large portion of what is termed the province of Texas is within the limit claimed by the United States—a claim yet existing, since the convention of the 22d of February is not ratified by Spain, whose best title to the said territory was contained in that instrument.

Your Excellency is not happy in supposing there is any justification for the delay to ratify, and the determination to ask explanations, in the example of my Government in relation to the eighth article of the treaty. The United States have not asked, nor do they ask, any explanation of the article in question. They understand it to impose a certain obligation entered into according to the intention of the parties. They were informed that their intention was not fairly or fully expressed, and, as justice and good faith required, they gave notice to the Spanish Government of their resolution to execute the article according to its spirit and intention. The address to Mr. Onís was to procure, in the simplest form, the evidence to show what that intention was. Your Excellency will pardon me for saying that I am shocked at the assertion now made, that the declaration intended to be presented at the exchange of ratifications annuls the said article, as it obliges me to conclude that the grants to the Duke of Alagón, the Count of Punon Rostro, and Mr. Vargas, are, in the opinion of this Government, of a date prior to the 24th of January, 1818, the date named in that article of the treaty; and that the Government of Spain believes itself authorized to insist that they would be valid under it. This disclosure compels me, from the duty I owe to my country, and in obedience to the instructions I have received, earnestly to remonstrate against the conduct of Spain in relation to these grants—a conduct towards the United States injurious, unjust, and deceptive, and which cannot fail, when made known, to excite the resentment of all nations who prize honorable dealing and love good faith.

The history of these donations, and of the stipulation in regard to them, will show that the determination of the United States to consider them

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void under the treaty was justifiable, proper, and necessary to the honest fulfilment of the engagement into which they had entered; and that a denial of this position would fix upon the Spanish Government a charge of an attempt to commit a deception, for which the language of decorum has no appropriate name. The possession of Florida has long been an object of interest to the United States—a land useless and expensive to His Catholic Majesty, and chiefly valuable by its position to them. Ever since the restoration of His Majesty to the throne of Spain, the question of the cession of that territory has been agitated. In the Summer or Autumn of 1817, after the determination to negotiate all matters in dispute at Washington, it is to be presumed authority was given to Mr. Onís to offer the Floridas for an equivalent to the United States. In July, 1817, Mr. Pizarro informed Mr. Erving that the instructions for Mr. Onís were preparing. Comparing the date of the offer of cession made by that Minister, of the 24th January, 1818, with the time necessary for transmitting the instructions under which it was made, the conclusion is, that, prior to November, 1817, the authority was given to Mr. Onís to offer Florida to the United States, according to the instructions preparing by Mr. Pizarro at the date of his communication to Mr. Erving, of the 27th July, 1817. (See No. 1.) In November following, the prospect of a cession to the United States having made property in that territory valuable, petitions were presented to His Majesty for grants of land in Florida by the Duke of Alagon and Count Punon Rostro. In December, 1817, the King decided, by royal orders, that these petitions should be allowed; in February, 1818, the royal letters patent were issued to the petitioners in the Council of Indies.

The donation to Duke Alagon included all the uncultivated land in East Florida, not previously ceded, between the margins of the rivers St. John and St. Lucia, to their entrances into the sea, and the coast of the Gulf of Florida and the adjacent islands, the mouth of the river Híjuelos from the twenty-sixth degree of latitude, following its left bank to its source; thence, by a line drawn to the Lake of Macao; thence, by the way of the river St. John, to the Lake Valdes; thence, by a line, cutting the extreme north of that lake, as far as the source of that river, and by the coast of the sea, with all adjacent islands, to the mouth of the river Híjuelos.

To the Count Punon Rostro was granted all the uncultivated lands not before ceded, in East Florida, which are situated between the Rio Perdido, to the west of the Gulf of Mexico, and the rivers Amasuca and St. John, from Popa to its mouth, and the southern boundary line of the United States and the Gulf of Mexico, with all the uninhabited islands near the coast.

About the close of 1817, or beginning of 1818, Mr. Vargas petitioned for lands in Florida. On the 25th January, 1818, a royal order allowed his petition; and the cedula is of the date of the 9th April, 1818.

The donation to Mr. Vargas was,

1st. All uncultivated and not before ceded lands between the bay of Mobile, the river Perdido, the boundary line of the United States and the Gulf of Mexico.

2d. All the lands lying south of Alagon's grant, from the mouth of Híjuelos, on the Gulf of Mexico, and the mouth of St. Lucia, on the Gulf of Florida, to Tancha point, or Cape Florida, with all the islands, &c.

3d. All lands in West Florida to which Spain was entitled, and all lands in dispute with the United States.

While these extraordinary and enormous donations were making in Spain, Florida had been offered to the United States, and the terms of cession were in the course of adjustment. After great labor and delay, the negotiation terminated by the convention of 1819. To provide an indemnity for the claims of American citizens upon Spain, some of which were acknowledged in 1804 to be just, although the treaty providing for their adjustment and payment, made in that year, had been but just ratified by Spain, was one of the causes of the cession of Florida in full property to the United States, who engaged to pay their own citizens out of the vacant lands in that territory, but it was previously necessary to ascertain that the fund provided was sufficient for that purpose. Mr. Onís insisted, in his note of the 24th October, 1818, that all grants made prior to that date should be held valid. The answer of the Secretary of State, of the 31st October, is, that the United States cannot renounce their claims upon Spain, and those of their citizens, and at the same time recognise all grants as valid. He says to Mr. Onís, "Notice had been given by the Minister of the United States in Spain to your Government, that all the grants of land lately alleged to have been made by your Government within those territories must be cancelled, unless your Government should provide some other adequate fund from which the claims above referred to, of the United States and their citizens, may be satisfied."

On the 16th of November, Mr. Onís proposes that the late grants, made since the date of this note offering a cession, should be declared null and void, in consideration of the grantees not having complied with the essential conditions of the cession, as had been the fact. The late grants, as was explicitly understood by both the negotiators, and can only be so understood, referred to the large grants of land to Alagon, Punon Rostro, and Vargas, respecting which notice had been given by Mr. Erving to Mr. Pizarro. To remove all possible doubt, Mr. Onís states to have been the inducement to the grants the same causes which are stated in the royal orders respecting them—a desire to promote population, cultivation, and industry—causes assigned for no other modern donations. It being perfectly understood by the parties that these grants were to be annulled by the convention, all that remained was to reduce the intention of the parties to a formal article. Mr. Onís, who had expressly agreed to exclude them, whatever might be their dates, in the first projet of the treaty delivered on the 9th February, had drawn the arti-



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cle in such terms as to confirm all grants made before January 24, 1818. The article was not accepted in that form. In the counter-project of the Secretary of State, Mr. Adams, on the 13th February, the grants prior to the 24th January, 1818, the conditions of which should have been performed by the grantees, and none others, were declared to be confirmed. Mr. Onís was at this time confined to his house by indisposition, and, by his request, the communications between the negotiators were made through the friendly interposition of Mr. Hyde de Neuville; Mr. Onís insisted upon the article as drawn up by him, not for the purpose of covering these grants, but merely to save the honor of the King. As it was obvious that the honor of the King would not be affected by declaring the grants made prior to January, 1818, binding to the same extent as they would have been on Spain if a cession had not taken place, Mr. Onís yielded to a modification proposed by the Secretary of State to that effect, but at the same time observed that these were grants of old dates, made *bona fide* to persons in actual possession of the lands, and who had improvements and settlements on them, but who, by the revolutions in Europe, and the convulsed state of Spain, had been prevented from completing all the conditions of their grants; that it would be equitable to allow them time from the date of the treaty to fulfil them. This was readily assented to, and the article, as presented by Mr. Onís, was thus modified: "do exclude, absolutely, all grants made subsequent to the 24th January, 1818."

2d. To confirm all grants prior to that period, to the same extent that they would have been valid had the territory ceded remained under the dominion of His Majesty.

3d. To allow all whose titles were imperfect, and who had been prevented, by the recent circumstances of the Spanish empire, and the revolutions in Europe, from fulfilling the condition of their grants, a limited time to complete them. When, after the signature of the treaty, a rumor prevailed that the grants to Alagon, Punon Rostro, and Vargas, were valid under the treaty, being dated but a short time before the 24th of January, 1818, and that this date was assumed with the intention that they should be confirmed; without admitting the suspicion of any unfair dealing in the conduct of the negotiator of Spain, that no pretence should, by any possibility, be raised after the ratification of the treaty that these grants were confirmed, or that either party to the compact had understood that they would be confirmed, I was instructed to deliver, on the exchange of ratifications, the declaration of the construction it was the avowed intention of both parties at the signature that the eighth article should bear in relation to the grants in question, and the only one the United States would ever admit. In a correspondence of March, 1819, between Mr. Adams and Mr. Onís, the Spanish Minister unequivocally admits that such had been his understanding of the article when he signed it—a fact fully confirmed by the declaration of Mr. Hyde de Neuville.

Such, sir, is the history of these grants, and the

negotiation in relation to them. It would not be difficult to prove that the declaration of the American Government (a copy of which I had the honor to transmit to your Excellency, as it is in strict conformity with the intention of the parties) is also in unison with the very letter of the compact. Without entering into a minute discussion of the difference in the force and obligation of the royal order, made prior, and the royal cedula, made subsequent, to the 24th January, 1818, I may venture to assert that no title was vested in the several grantees until the royal cedula given in the Council of Indies. Even if I should err in this position, of the solidity of which I have the most perfect conviction, these grants would not be valid under the treaty, as the conditions of them have not been complied with; nor could the grantees claim the benefit of the stipulation to give time to the old claimants to perfect their titles, since they could not pretend that they were prevented from fulfilling the essential conditions of their donations by the recent circumstances of the Spanish monarchy, or by the late revolutions in Europe. The declaration presented by me to your Excellency might have been safely withheld, had not the Government of the United States determined not to be embarrassed by any pretended claims under these grants, either on the part of Spain, her subjects, or the persons holding under them. The course pursued has been justifiable as it relates to Spain, proper as regards the character of the American Government, and necessary to the honest discharge of the obligation of the convention, by which it bound itself to pay to its own citizens, out of the fund of the Florida lands, their claims upon Spain, to the amount of five millions of dollars.

Having thus vindicated the character of the United States, by showing that they have made no attempt to alter, in any degree, the obligations of the convention, it remains for me to establish the position laid down in regard to Spain. With infinite reluctance I approach the execution of this painful but not difficult task. The convictions of its truth arise so forcibly out of the circumstances of this transaction, as already detailed, that a bare reference to particular portions of them will be sufficient for my purpose. I must call your Excellency's attention to the period at which these donations were made; the departure from the ordinary regulations of the Spanish Government in the quantity of land given away to the grantees; the reasons assigned for making the donations; to the conduct of the Spanish Minister in the United States in arranging the eighth article of the convention; and to the malignant influence these donations seem to have had in preventing the ratification of that convention. The idea of making these grants was not entertained until Spain had determined to cede the Floridas to the United States. Authority was given to offer a cession of that country; between the grants and the execution of that authority the resolution is formed, and partially carried into effect, to render the thing to be ceded, as far as it was in the power of Spain to render it so, worthless. It may be suggested that the sovereignty of the territory was all that the

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Spanish Government proposed to cede; and that this was, of itself, sufficiently important to the United States to render unnecessary any attention to the property in the soil. The force of such a suggestion is destroyed by the fact that Spain proposed to provide for the payment of the claims of the United States, and of their citizens upon her, out of the vacant lands of the territory to be ceded. What was the meaning of this proposal, and the stipulation made in consequence of it, when, by secret and irregular donations of all the vacant lands, His Catholic Majesty had rendered its fulfilment impossible; and this, too, while the Spanish Minister was in the very act of discussing it? Was it made in mockery, to add insult to the injuries of which the American Government had so long complained, and satisfaction for which they had generously forborne to take? By reference to the archives of the Indies, your Excellency will find that the donations to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, include all the vacant land, not only in that part of the Floridas possessed by Spain, but also that possessed by the United States under the cession of Louisiana from France. I make this reference from a belief that the description of the different grants herein contained is nearly if not entirely correct.

The colonial regulations of Spain, made for Louisiana and Florida, expressly forbid the alienation of more than a named or small portion of land to the same person. This, it is true, is a restriction upon the governors and authorities of those territories, and was not obligatory upon the King; but it shows the general policy of the Government widely departed from, in the donations to two favorite officers of the Crown and a Spanish subject, between whom, in a sweeping transfer, a few millions of acres were liberally granted by the King; and what, sir, were the reasons assigned for these liberal gifts? "For the increase of population in the territory of Florida;" "for the fulfilment of His Majesty's beneficent wishes in favor of the agriculture and commerce of his said possessions, which were very much in want of a population adequate to the fertility of the land and the defence of the coast." At the moment of determining to pass away the territory to the dominion of a foreign Power, the anxiety is discovered to render it populous, to foster its agriculture and commerce, to furnish an adequate defence for its coasts. That individuals, who sought the acquisition of wealth at the expense of the moral character of their country, should attempt to conceal the real, the selfish motive of their application for gifts, under the pretence of being actuated by a desire of promoting the interest of the State, is not surprising, since the history of the world affords so many unhappy examples of it; but it is both wonderful and lamentable that Governments should be deluded to adopt such hollow pretences, and assign them as the motives of their conduct. In the present case, how are these reasons of State reconcilable with the proposed cession of the territory? Either Spain offered a cession, intending never to make it, or these were not the real inducements to these donations.

A territory which had been almost abandoned for years by the Government of Spain, alternately used by the British troops, the Indians, and the blacks, for the annoyance of the United States, which had been left to be preyed upon by every adventurer who could command a pilot boat and a musket, becomes, at the moment it is to be ceded away, an object of parental solicitude—a solicitude discovered by giving monopolies of its lands to three persons, who affected the intention to cultivate and improve them; an intention established by the notorious fact of these lands having been frequently offered for sale by the claimants in Spain and in the United States. It is somewhat singular that the Spanish Minister in the United States, who, in the whole of the negotiation, professed the most perfect readiness to stipulate that they should be given up, should yet be ignorant of the dates of these donations, and should have arranged an article in respect to grants so as to leave room for a pretence that the large donations were valid. How happened it that he was thus ignorant—he, upon whose knowledge of these instruments the United States relied—and they could rely upon no other? How did it occur that, in the short space of twelve days after the signature of the treaty, the information was given to satisfy him that he might have been mistaken in the belief with regard to their dates? I reject the supposition that all this was diplomatic finesse, intended to secure the large donations to the claimants of them, but refer to this circumstance to prove still more clearly how injuriously Spain has acted to the United States in this business. The allegation that the American Government ought not to have relied upon information derived from the Minister with whom they were negotiating will never be urged by Spain. The American Government could not procure authentic information from any other source; and if a mistake had been made from a reliance upon that which was procured, a just and honorable Government would disdain to take any other advantage of it than that of manifesting its good faith, by its cheerfulness and promptitude in correcting the error; fulfilling the intention, instead of the letter of its engagement. In fine, sir, the injustice of this transaction has been perfected by the influence these donations appear to have had in preventing the ratification of the convention of 22d February, 1819; a convention which settled important interests; secured the pacific and harmonious relations between the United States and Spain; provided indemnities for injuries that Spain acknowledged American citizens had suffered from her; removed all causes of future dispute and difficulty, and laid deep and broad the foundation of a permanent good understanding between the two Powers. Such, sir, has been the conduct of Spain. She offered a cession, and endeavored to render it worthless; she proposed indemnities, and attempted to destroy the fund out of which they were to be made. To do this, she abandoned her ancient territorial policy, and assigned reasons for her conduct which could not have regulated it. Her negotiator acted as if he knew of facts of which he subsequently professed

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himself to have been ignorant, and, in consequence, made an arrangement which laid the foundation of new embarrassments between this Government and that of the United States; and, because the United States frankly avow their resolution to do what they engaged to do, I am told that their example justifies Spain in an indefinite delay of a determination to accept or reject that arrangement. In whatever light this transaction is viewed, grievous injury has been done to the United States, for which they have a right to demand and obtain satisfaction. Having thus experienced its necessity and propriety, your Excellency must not be surprised if the United States, in future, take pledges of security for the performance of any engagements they may enter into with Spain more effectual than confidence in her good faith.

I renew to your Excellency, whom may God preserve, the assurance of my most distinguished consideration.

JOHN FORSYTH.

DUKE OF SAN FERNANDO AND QUIROGA.

No. 1.

*Extract of a letter from Mr. Pizarro to Mr. Erving, dated*

MADRID, July 27, 1817.

And no time shall be lost in preparing the instructions of which Don Luis Noeli will be the bearer to the Minister Onís, it being His Majesty's intention that no step or measure shall be omitted which may promote the settlement upon terms consistent with the welfare of his subjects and the honor of his crown.

*Extract of a letter from Mr. Forsyth to the Secretary of State.*

MADRID, November 16, 1819.

Since my official letter, by way of Gibraltar, numbered 9, nothing important in relation to our affairs has occurred here. General Vives has not yet found his way to Madrid.

It is now said Vives will go by the way of England. The expedition of Cadiz is again the subject of interest with Spain. It is contemplated to send it out in February, and the force is to be 15,000 men.

*Extract of a letter from Mr. Forsyth to the Secretary of State.*

MADRID, November 27, 1819.

Late in the evening of the 16th of the present month, after my letter to you of that date had been sent to the post office, I was very much surprised to receive from the Duke of San Fernando the remonstrance addressed to him on the 18th of October last. The causes assigned for this step you will find in the copy of the Duke's note of the 12th November, marked No. 1. After mature deliberation, it appeared to me that the only course which I could pursue was to insist upon the reception of the remonstrance, and, if that was refused, to leave Madrid; believing that, in doing

this, I should only anticipate the wishes of the President. It is possible that this determination will gratify the wishes of this Government, whose good-will has been lost to me ever since the delivery of my official note of the 21st of June to Mr. Salmon. The truth of this supposition will be ascertained by the effect of my note of the 20th; a copy of which, marked No. 2, is enclosed. If they wish me to remain, they will either receive the remonstrance, or give me such assurances with respect to the grants as will justify me in withholding it altogether. I shall give you the earliest possible information of what is done. At all events, I shall not quit Madrid until the 1st of January, and will, if I am obliged to leave it, remain in France until the beginning of March, with the hope of hearing before that period what direction Congress will give to our affairs with Spain. General Vives was in Madrid at the date of my last letter. I did not hear of his arrival until the 17th, although he arrived on the 15th. I have been told that his appointment has been made known to him officially, and that he has, with great reluctance, accepted it. From the Government of Spain I know nothing about him, either formally or informally.

No. 1.

*The Duke of San Fernando and Quiroga to Mr. Forsyth.*

PALACE, November 12, 1819.

SIR: I have perused with due attention your note of the 18th ultimo; and although I wished, on reflecting on the friendly sentiments entertained by the King, my master, for your Government, and on those which, on my part, I have for it and for yourself personally, to have found them reciprocated in your note, since I had every reason to be persuaded, from what had passed in our conference on the 3d of the same month, that they really existed, I have, notwithstanding, to regret that my expectations have unfortunately been disappointed. So far, indeed, is your note from exhibiting those feelings, that it gives me extreme concern only to discover in it ideas which seem wholly incompatible with the principles professed by your Government, and expressed in terms (since I am compelled to say so) equally unprecedented, and repugnant to the delicacy and attention which are peculiar to, and are invariably observed in all diplomatic communications. I should have failed in the very high consideration I owe, to the American Government, in the due respect I entertain for you, and especially in my duty as the principal secretary of His Majesty the King, my lord, by communicating to him the contents of a note which attacks the honor of His Majesty, without tending in the least to elucidate the subject in question. Upon it the King will, in a direct course, demand of and give to the Federal Government the requisite explanations, as I have already had the honor more than once to inform you. It is, therefore, with the greatest concern that it becomes my indispensable duty to return to you such a note, with the assurance that I will, with as great pleasure, promptitude, and eagerness, submit to His Majesty such communications

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as you may address to me which are conceived in fit and becoming terms, as I am wholly averse to laying before him those which cannot fail to prove offensive to his exalted character and sovereign dignity.

In repeating to you the keen regrets I feel on this occasion, I have to renew the assurance of my perfect readiness to receive from you such communications as you may be pleased to make to me, and as are conformable to the received usage and custom of European diplomacy. God preserve you many years.

SAN FERNANDO Y QUIROGA.

To the MINISTER of the U. S.

No. 2.

*Mr. Forsyth to the Duke of San Fernando and Quiroga.*

MADRID, November 20, 1819.

SIR: Your Excellency's note of the 12th was delivered to me on the 16th. The official remonstrance of the 18th October, which your Excellency has felt yourself reluctantly compelled to return to me, was prepared and sent by the instructions of the Government of the United States. It must be obvious to your Excellency that, if representations to His Catholic Majesty which I am directed to make are not received, my further residence near His Majesty's Court would be worse than useless to my country. I should have preferred that your Excellency would either have pointed out precisely what you deemed inadmissible, and requested an alteration, or have desired me to recall the remonstrance, for the purpose, if possible, of putting it in terms more acceptable. I need not, after our conversation of the 3d ult., assure your Excellency that I should have done every thing consistent with the obligations of duty to meet your wishes. No doubt it occurred to the enlightened understanding of your Excellency that, from the nature of the subject, but few sacrifices could be made to diplomatic courtesy.

I regret that the censure bestowed upon the remonstrance had not been made with more precision. As your Excellency has remarked upon it in very general terms, I am compelled to follow the example. The objections are that the remonstrance does not contain the friendly sentiments which ought to animate the United States towards Spain, as such sentiments animate His Catholic Majesty towards the United States; that it contains ideas which are not, and cannot be, analogous to the principles which ought to govern the United States, and terms disused and foreign to the delicacy and attention always so much observed, and so peculiar to diplomatic communications; that you cannot place it before His Majesty, because it attacks the honor of the King without serving as any illustration of the matter discussed in it, which His Majesty will know how to ask and give directly to the Federal Government. Objections, in terms so general, might with safety be made to any embarrassing official document on an important subject of dispute. Upon which of these does your Excellency rely to justify the return of the remonstrance? To secure the reception of an

official note, is it necessary that the sentiments of it should be friendly? that the ideas it contains should, in the opinion of the organ of the Government to whom it is addressed, be analogous to the principles which ought to govern the Power from whom it is sent? that the terms of it should be well chosen, courteous, and delicate, according to the usages of diplomacy? or even that it should not attack the character of the Government? Your Excellency's candor, enlightened by the history of the intercourse of nations, must admit that few diplomatic notes would be received, if these were prerequisites. The sentiments, ideas, and terms of diplomatic, like all other correspondence, change according to the situation and determination of the parties, and the nature of the subject of it. The correspondence is courtly and delicate while the parties can rely upon the good dispositions of each other. Sometimes, indeed, the language of courtesy is continued to conceal intentions of deadly hostility—to blind an adversary to preparations which are making for his destruction. This dishonorable artifice has become, by frequent use, too well known to deceive. But in every controversy which terminates in a serious misunderstanding, a period arrives when delicacy and attention give place to plainness and truth. All that can be required is, that the head of the Government shall not be treated with personal disrespect. In many instances the subject-matter is of a character so peculiar that it cannot be touched without calling in question the honor of the Government whose conduct is examined. In reclamations made for the violation of treaties, for outrages upon the rights of humanity, for fraudulent designs, so soon as the Government refuses to give the reparation required, the charge of bad faith, of inhumanity, or fraud, is fixed upon it, if not by direct assertion, by necessary implication.

Every remonstrance supposes some wrong committed, and, of necessity, questions the conduct of the Government which has given occasion to it. There is this difference between remonstrances made before and after the Government itself declares its approbation of the act complained of. The first are made with a professed belief that the act will be disavowed, and reparation will be made; the last cannot contain such a courteous admission. Strange, indeed, would it be if nations should suffer injury from fraud, injustice, or violence, and should be restrained from the expression of their sentiments, by the danger of sinning against the high character and dignity of the offending Power. I claim the right, as the representative of my country, of placing any remonstrance I may deem necessary to the interest and honor of the United States, before the King, your Excellency's royal master, that is not couched in terms personally disrespectful to the sovereign of Spain; and even were I capable of forgetting the obligations of personal respect to the King himself, I should question your Excellency's right to refuse to receive the representations I should make. If your Excellency proposes to be governed by the usages of European diplomacy, the usual course

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in such case would be, either to direct the minister who forgets the respect due to the person of the sovereign near whom he resides to withdraw, or to request his recall from the Government he represents.

But to come to a more particular examination of the several causes of complaint against the note of the 18th October, 1819. "It does not contain the friendly sentiments which should animate the United States to Spain." Allow me to refer your Excellency to all the official correspondence of the United States with foreign nations: you will find that we do not deal in professions; we know they are worthless, and, therefore, leave all nations with whom we have intercourse to judge of our dispositions by our conduct. What meaning your Excellency proposes to convey when you state that my note contains ideas which are not, and cannot be, analogous to the principles which ought to govern the United States, I do not comprehend. Whether your Excellency refers to the principles of morality, of national law, or of municipal policy, I trust and believe there is nothing in it which is not consistent with the purest morality, and justified by the soundest maxims of national law. If your Excellency refers to the principles of municipal policy, I must be allowed to say that your Excellency's judgment has deceived you upon a subject on which it was not competent for you to decide. Your Excellency may hope that the principles that are not consonant with those contained here do not govern the United States; but when your Excellency proceeds to say what should or should not govern my country, your Excellency volunteers an opinion on a subject upon which we do not admit of foreign interference. We know full well that our principles, not of morality, or of national law, (for on those points it is to be hoped there is but little difference of opinion in all quarters of the world,) but of government, could scarcely be approved by a politician of Spain. With all my respect for your Excellency, and knowledge of your excellent character, I cannot suppose you sufficiently well acquainted with the principles of free government to decide correctly upon this subject, since it is a species of knowledge not fashionable in Spain, or particularly calculated to render the possessor of it useful in the high departments of His Majesty's Government.

But the terms of my note are unusual, and not consistent with delicacy, &c. Let me entreat your Excellency to re-examine the offending paper. I venture to say that there are no unusual terms in it, or terms inconsistent with the most scrupulous delicacy. It is true that the subject is one of the most unpleasant nature. The facts, and the reasoning upon them, go to fix a serious charge upon the Government of Spain. If the facts are undisputed, and no unfair conclusions are drawn from them, your Excellency must be satisfied that the fault lies not upon its author, or upon those by whose command it was prepared, but upon those who made it necessary—upon those whose misconduct or evil counsel has made it necessary

for a foreign Government to make such representations to the King. That it is necessary for the United States to remonstrate on this subject, I will not attempt to demonstrate. That question has been decided by them, and your Excellency appears to be satisfied of its propriety, when you suggest that the King will know how to ask and give an illustration of this matter directly to the Federal Government. The Federal Government, however, prefers to have this illustration indirectly through its Minister at the Court of Spain; the more especially as it appears there is but little prospect of its being speedily afforded in the direct mode. I think more than a month has elapsed since your Excellency spoke of the intention of sending a Minister to the United States, not then appointed. I have yet to learn from your Excellency if that appointment has been made. To this representation I will add that, if my official note of the 18th October contains any thing personally offensive to His Majesty, it was not inserted with such a design. I desire to treat the sovereign of Spain with every possible respect and decorum. The intentions of the head of this Government I always suppose to be correct; the King may be deceived by false representations, misled by evil counsel, while his own intentions are pure and honorable. This the decorum of diplomacy always takes for granted; and if I have violated this rule, as soon as I am made sensible of it, I will hasten to correct the error. Your Excellency thinks that I ought to have remained satisfied with the conversation of the 3d of October, on the subject of the difference between our two Governments. I appeal confidently to your Excellency duly to estimate the value of the assurances received from you. They did not differ from those previously received from your Excellency's predecessor in office. They were, indeed, given more sparingly, and with greater caution. With every portion of your Excellency's deportment I had reason to be satisfied; but on the important matter of our interview I had but too much cause to apprehend what subsequently occurred—a new refusal on the part of His Majesty's Government to do what we think justice and honor require. If reliance is to be placed on the information given by the public journals, (and your Excellency has quoted them as authority, even since that interview,) an instructive commentary has been furnished upon the designs of Spain. On the 18th of July last, in consequence of orders for preparation, which must have issued simultaneously with Mr. Salmon's note to me of the 19th June, a portion of the force collected at Cadiz was hurried off under General Cagigal. The conjecture entertained was, that it was intended to strengthen the royal forces in some portion of the dominions of Spain to revolt against the authority of the King. It appears by recent notices that a moiety of this expedition has been sent to Florida. This fact, in addition to the numerous circumstances already brought to the view of this Government in my previous correspondence, will certainly be considered sufficiently marked to excuse, if not justify, a little incredulity.

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As the business of the remonstrance is likely to produce very unpleasant consequences, I propose, out of a prudent but possibly useless caution, to direct the note of the 18th to be carefully translated by the person attached to this legation. It will then be sent to your Excellency for re-examination, unless I should previously receive some formal assurances on the subject of the grants which have occasioned it, which will justify me in withholding it altogether—an occurrence which would afford me the liveliest sensations of pleasure.

If, on the re-examination of the document, your Excellency's determination should remain the same, you will do your duty, and I shall do mine.

May God preserve your Excellency many years. I renew the assurances of my most distinguished consideration.

JOHN FORSYTH.

DUKE OF SAN FERNANDO AND QUIROGA.

*The Secretary of State to Mr. Lowndes.*

DEPARTMENT OF STATE,

Washington, Dec. 16, 1819.

SIR: With reference to the question proposed by the committee, "whether the Executive considers the Florida treaty as a subsisting one, valid according to national law, and giving the same perfect rights, and imposing the same perfect obligations, as if it had been ratified, I have the honor to state that the President considers the treaty of 22d February last as obligatory on the honor and good faith of Spain, not as a perfect treaty, (ratification being an essential to that,) but as a compact which Spain was bound to ratify; as an adjustment of the differences between the two nations, which the King of Spain, by his full power to his Minister, had solemnly promised to approve, ratify, and fulfil. This adjustment is assumed as the measure of what the United States had a right to obtain from Spain, from the signature of the treaty. The principle may be illustrated by reference to rules of municipal law relative to transactions between individuals. The difference between the treaty unratified and ratified may be likened to the difference between a covenant to convey lands and the deed of conveyance itself. Upon a breach of the covenant to convey, courts of equity decree that the party who has broken his covenant shall convey, and, further, shall make good to the other party all damages which he has sustained by the breach of contract.

As there is no court of chancery between nations, their differences can be settled only by agreement or by force. The resort to force is justifiable only when justice cannot be obtained by negotiation; and the resort to force is limited to the attainment of justice. The wrong received marks the boundaries of the right to be obtained.

The King of Spain was bound to ratify the treaty; bound by the principles of the law of nations applicable to the case; and further bound by the solemn promise in the full power. He refusing to perform this promise and obligation, the United States have a perfect right to do what a court of chancery would do in a transaction of a

similar character between individuals—namely, to compel the performance of the engagement as far as compulsion can accomplish it, and to indemnify themselves for all the damages and charges incident to the necessity of using compulsion. They cannot compel the King of Spain to sign the act of ratification, and, therefore, cannot make the instrument a perfect treaty; but they can, and are justifiable in so doing, take that which the treaty, if perfect, would have bound Spain to deliver up to them; and they are further entitled to indemnity for all the expenses and damages which they may sustain by consequence of the refusal of Spain to ratify. The refusal to ratify gives them the same right to do justice to themselves as the refusal to fulfil would have given them if Spain had ratified, and then ordered the Governor of Florida not to deliver over the province.

By considering the treaty as the term beyond which the United States will not look back in their controversial relations with Spain, they not only will manifest a continued respect for the sanctity of their own engagements, but they avoid the inconvenience of re-entering upon a field of mutual complaint and crimination so extensive that it would be scarcely possible to decide where or when negotiation should cease, or at what point force should be stayed for satisfied right; and by resorting to force only so far as the treaty had acknowledged their right, they offer an inducement to Spain to complete the transaction on her part, without proceeding to general hostility. But Spain must be responsible to the United States for every wrong done by her after the signature of the treaty by her Minister; and the refusal to ratify his act is the first wrong for which they are entitled to redress.

JOHN QUINCY ADAMS.

WILLIAM LOWNDES, Esq.,

*Chairman Committee Foreign Relations.*

*The Secretary of State to Mr. Lowndes.*

DEPARTMENT OF STATE, Dec. 21, 1819.

SIR: In answer to the questions contained in your letter of the 10th instant, I have the honor to state for the information of the committee—

1st. That information has been received by the Government of the United States, though not through a direct channel, nor in authentic form, that another motive besides those alleged in the letter of the Duke of San Fernando to Mr. Forsyth did operate upon the Spanish Cabinet to induce the withholding of the ratification of the treaty—namely, the apprehension that the ratification would be immediately followed by the recognition by the United States of the independence of one or more of the South American provinces. It has been suggested that, probably, the most important of the explanations which the Minister to be sent by Spain will be instructed to ask, will consist of an explicit declaration of the intentions of this Government in that respect. There is reason, also, to believe that the impunity with which privateers fitted out, manned, and officered, in one or more of our ports, have committed hos-

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ilities upon the Spanish commerce, will be alleged among the reasons for delay, and perhaps some pledge may be required of the effectual execution against these practices of laws which appear to exist in the statute book.

It may be proper to remark that, during the negotiation of the Florida Treaty, repeated and very earnest efforts were made, both by Mr. Pizarro at Madrid, and by Mr. Onís here, to obtain from the Government of the United States either a positive stipulation or a tacit promise that the United States would not recognise any of the South American revolutionary Governments; and that the Spanish negotiators were distinctly and explicitly informed that this Government would not assent to any such engagement, either express or implied.

2d. By all the information which has been obtained of the respective views of the French and Russian Governments in relation to the course which it was by them thought probable would be pursued by the United States, it is apparent that they strongly apprehend the immediate forcible occupation of Florida by the United States, on the non-ratification by Spain of the treaty within the stipulated time. France and Russia both have most earnestly dissuaded us from that course, not by any regular official communication, but by informal friendly advice, deprecating immediate hostility, on account of its tendency to kindle a general war, which they fear would be the consequence of a war between the United States and Spain. It was alleged that, in the present state of our controversy with Spain, the opinion of all Europe on the point at issue was in our favor, and against her; that, by exercising patience a little longer, by waiting at least to hear the Minister who was announced as coming to give and receive explanations, we could not fail of obtaining, ultimately, without resort to force, the right to which it was admitted we were entitled; but that precipitate measures of violence might not only provoke Spain to war, but would change the state of the question between us, would exhibit us to the world as the aggressors, and would indispose against us those now the most decided in our favor.

It is not expected that, in the event of a war with Spain, any European Power will openly take a part in it against the United States; but there is no doubt that the principal reliance of Spain will be upon the employment of privateers in France and England as well as in the East and West India seas and upon our own coast, under the Spanish flag, but manned from all nations, including citizens of our own, expatriated into Spanish subjects for the purpose.

3d. The enclosed copies of letters from Mr. Fromentin contain the most particular information possessed by the Executive with regard to the subjects mentioned in your third inquiry. In the month of September, a corps of three thousand men arrived at the Havana from Spain, one-third of whom are said to have already fallen victims to the diseases of that climate. By advices from the Havana as recent as the 4th of this month, we

are assured that no part of this force is intended to be, in any event, employed in Florida.

4th. A communication from the Secretary of War, also herewith enclosed, contains the information requested by the committee upon this inquiry.

5th. At the time when Captain Read left Madrid, (13th October,) Mr. Forsyth had no positive information even of the appointment of the person who is to come out as the Minister. Indirectly we have been assured that he might be expected to arrive here in the course of the present month.

I am, with great respect, sir, your obedient serv't,

JOHN QUINCY ADAMS.

WILLIAM LOWNDES, Esq., *Chairman, &c.*

*Extract of a letter from Mr. Forsyth to the Secretary of State, dated*

MADRID, January 3, 1820.

A few days after the date of my last, numbered 10, I had a visit from the Count Bulgary, the Russian Chargé d'Affaires. He came to see me in consequence of a conversation he had just had with the Duke of San Fernando respecting my official letter of the 18th of October, and the subsequent correspondence in relation to it. He stated to me that the Duke regretted the necessity of sending back the letter, but that it was so harsh in its terms he could not place it before the King. To this were added a great many assurances of personal kindness and good-will, not necessary to be repeated. I replied that it was very mortifying to me to be obliged to send the letter in the first instance, and not less so to insist on its being received; that the Duke had put it out of my power to act otherwise than I had done; but that there was no difficulty in avoiding the unpleasant consequences likely to ensue. The Duke had nothing to do but to give me such assurances in regard to the grants as would render it superfluous for me to say any thing about them. His answer was at once curious and dissatisfactory; he said that the Duke could not give me any assurances, such was the predominating influence of the grantees with the King. He was sincerely disposed to settle all the differences with the United States, and hoped in a short time to have power to effect it; had authorized Count Bulgary to say to the Russian Government that General Vives was going immediately to the United States, and would have competent powers; and that every thing would be amicably arranged. I made the Russian Chargé d'Affaires sensible that one part of this statement contradicted the other. General Vives could not receive powers competent to the purpose of amicable settlement, if the Secretary of State's despatch was unable, from the influence of the grantees, to say any thing about the large donations. This was a subject upon which the American Government would listen to no terms, friendly arrangement was out of the question, and General Vives's visit to the United States useless, unless the Spanish Government was prepared to abandon their pretensions in favor of the grantees. On the subject of the mission of General Vives, I

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desired the Count to remind the Duke that I knew nothing of it. The general and loose declaration made months before, that the King would authorize some person to ask explanations at Washington, was all that the Spanish Government had chosen to communicate to me. The Count assured me of the personal anxiety of the Minister to arrange every thing satisfactorily between the two countries; that his hopes were strong of being able to effect it; that this business of the returned note was embarrassing, and that, if I went away in consequence of its not being received, what he believed to be the wish of the United States and of his Government, and almost all other Powers, might be frustrated. Matters were in a bad state at present, and this would make them worse. To this I answered, in general terms, that matters must become worse before they become better; that the Government of the United States had every disposition to be friendly with Spain, and had evinced it in a variety of modes; for myself, I had personally every wish to be the instrument of promoting good-will between the two nations. He said this Government had a different impression. I was very sorry for it; unfortunately, the conduct of the Spanish Government had compelled me to speak with a plainness and openness which was disagreeable, as they were not accustomed to it. In the course of a long conversation, it occurred to me that this dispute about the note might be useful, as I found the Spanish Government anxious to avoid receiving it, and, contrary to my expectations, desirous that I should remain here. I believed it practicable to accelerate their movements in our affairs without yielding the point in dispute. With this belief, I stated to Count Bulgary that, if the Duke of San Fernando would officially say to me at once that General Vives was going immediately to the United States, with ample authority to arrange the business of the convention, and that it was the particular wish of His Majesty's Government that the letter of the 18th should be withheld, and that all matters relating to the convention should be discussed in Washington, notwithstanding I had positive instructions to remonstrate on the subject of the grants, and the conduct of Spain in relation to them, I would take the responsibility of retaining the obnoxious paper in my hands until compelled by events to deliver it, or until I should receive further advices from the President. The Duke must understand that this was done with a perfect understanding that I insisted upon the right of returning the paper, and should exercise that right whenever I deemed it necessary. The Count left me with the expectation of making this arrangement. A few days afterwards we had another interview; he told me that the Duke would write to tell me of the appointment of General Vives, and of the intention of sending him immediately to Washington; that he would have full powers, &c., but that the Duke thought he could not advert particularly to the remonstrance, or the correspondence in relation to it, without commenting upon it, and this he desired to avoid. I answered, that I could not tell how I should act until I saw the Duke's note. If I found in it a

sufficient justification for retaining the remonstrance, I would do so, and would look at it with a view to find that justification. The Duke knew, from me, that I was instructed to remonstrate earnestly on the subject of the grants, and might judge, from my manner of performing that duty, of the sentiments of the American Government. A week elapsed after this last conversation without my hearing from the Secretary of State. I called on the Russian Chargé d'Affaires to say that I was surprised at this delay, and that I should certainly return the remonstrance if I did not hear from the Duke in a few days. He saw the Secretary of State in consequence of this visit, who assured him that his personal indisposition had prevented him from sending me the intended note. On the 18th of December I received the Duke's note, a copy of which is enclosed, marked No. 1; you will see that it is not what I had reason to expect. He does not request a suspension of any correspondence, or say that it is the wish of the Spanish Government that every thing should be left to the negotiation of General Vives. He merely states that, in his view, to continue discussion here would be superfluous, and likely to embarrass the direct negotiation. Perhaps, considering their peculiar mode of doing business, I had no right to calculate upon any thing more; nevertheless, I am not at all satisfied with it; and had I consulted my own inclinations only, I should immediately have sent back the note of the 18th of October, with the translation. What has occasioned me to delay and deliberate, and still keeps me uncertain how to act, is the apprehension that my judgment of what is proper might be involuntarily influenced by my own wishes. I need not conceal from you that my situation here is unpleasant, and that I find no sufficient consolation for my personal mortification in the consciousness of being useful to the United States, feeling, as I do, that I am almost, if not altogether, useless. The very awkward state of my private affairs in Georgia, in consequence of my unlooked-for detention here, increases my anxiety to leave Spain. What I fear (and I hope it is not an unworthy apprehension) is, that these circumstances may unconsciously induce me to believe that the more energetic course is the best. What I have at last resolved upon is, to delay my answer until I see the President's Message. It will then be sent before General Vives leaves Europe. He is still in Madrid; goes in a coach and *colleras* to Bayonne, a journey of twelve or fifteen days; thence to Paris; from Paris to England; and from England to the United States. His rapid journey to Washington will probably be finished in May. My answer will be regulated by the advices I hope soon to receive from Washington. I shall certainly not go further, in any event, than to say that I shall retain the letter of the 18th of October for a short time, under the hope that His Majesty will render it unnecessary to make any remonstrance on the subject of it.

JOHN FORSYTH.

JOHN Q. ADAMS,  
*Secretary of State.*



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No. 1.

*The Duke of San Fernando and Quiroga to Mr. Forsyth.*

PALACE, December 16, 1819.

SIR: In consequence of the decision of the King, my master, and in conformity with the communications which my predecessor and I have had the honor to make to you, the moment has arrived when the person of whom His Majesty had made choice is about to proceed to America, for the purpose of asking of your Government the explanations which His Majesty has judged to be indispensable, previous to the ratification by His Majesty of the treaty concluded and signed by Don Luis de Onís.

The Plenipotentiary appointed is the Mariscal-del-Campo Don Francisco Dionisio Vives, a distinguished person, in whom the King, my master, has the fullest confidence, and to whom he has given the most ample powers to settle all the difficulties he so earnestly wishes to see removed, and succeeded by the establishment, on a solid basis, of that harmony between Spain and the United States to which their mutual interests so strongly invite them.

As Don Francisco D. Vives will set out immediately on his journey, and proceed expeditiously, I consider the measure now communicated to you, and which you will be pleased to make known to your Government, as dispensing with any further discussion here of the points which form the object of the above-named gentleman's present mission; as a continuance of it would only tend to embarrass the course of the direct negotiation about to be established.

I renew to you, sir, the assurances of my distinguished respect, and I pray God to preserve you many years.

SAN FERNANDO Y QUIROGA.

To the MINISTER of the United States.

*Extract of a despatch from Count Nesselrode to Mr. Poletica, Minister of His Imperial Majesty the Emperor of Russia in the United States, dated*

NOVEMBER 27, [December 9,] 1819.

You have doubtless been able to obtain information how far the President's last instructions to Mr. Forsyth were positive. The Emperor will not now take it upon him to justify Spain; but he charges you to plead with the Government at Washington the cause of peace and concord. That Government is too enlightened to take hasty steps, and its rights appear to be too solid not to be weakened by a violent course of proceeding; and, on the other hand, such is the character of the considerations which command the ratification by Spain of the arrangement relative to the Floridas, that it is to be hoped she will at length yield to the force of evidence. The United States will then have added to the reputation of an able that of a moderate policy, and will gather with security the fruits of their wisdom.

His Imperial Majesty therefore wishes that, if there be yet time, you would engage the Government at Washington to give to the Spanish Min-

istry a proof of patience which its circumstances might, indeed, seem to suggest. Nevertheless, the Emperor does not interpose in this discussion. He makes, above all, no pretension to exercise an influence in the councils of a foreign Power. He merely expresses a wish dictated by his concern for the general welfare, and worthy of the generous good faith which characterizes the Government of the United States.

*To the House of Representatives of the U. S.:*

WASHINGTON, May 9, 1820.

I communicate to Congress a correspondence which has taken place between the Secretary of State and the Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty, since the message of the 27th March last, respecting the treaty which was concluded between the United States and Spain on the 22d February, 1819.

After the failure of His Majesty for so long a time to ratify the treaty, it was expected that this Minister would have brought with him the ratification, or that he would have been authorized to give an order for the delivery of the territory ceded by it to the United States. It appears, however, that the treaty is still unratified, and that the Minister has no authority to surrender the territory. The object of his mission has been to make complaints, and to demand explanations, respecting an imputed system of hostility, on the part of citizens of the United States, against the subjects and dominions of Spain, and an unfriendly policy in their Government, and to obtain new stipulations against these alleged injuries, as the condition on which the treaty should be ratified.

Unexpected as such complaints and such a demand were, under existing circumstances, it was thought proper, without compromising the Government as to the course to be pursued, to meet them promptly, and to give the explanations that were desired on every subject with the utmost candor. The result has proved, what was sufficiently well known before, that the charge of a systematic hostility being adopted and pursued by citizens of the United States against the dominions and subjects of Spain is utterly destitute of foundation; and that their Government, in all its branches, has maintained with the utmost rigor that neutrality in the civil war between Spain and the colonies which they were the first to declare. No force has been collected, nor incursions made, from within the United States, against the dominions of Spain; nor have any naval equipments been permitted in favor of either party against the other. Their citizens have been warned of the obligations incident to the neutral condition of their country; the public officers have been instructed to see that the laws were faithfully executed, and severe examples have been made of some who violated them.

In regard to the stipulation proposed as the condition of the ratification of the treaty, that the United States shall abandon the right to recognise the revolutionary colonies in South America, or to form other relations with them, when, in

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their judgment, it may be just and expedient so to do, it is manifestly so repugnant to the honor and even to the independence of the United States that it has been impossible to discuss it. In making this proposal, it is perceived that His Catholic Majesty has entirely misconceived the principles on which this Government has acted in being a party to a negotiation so long protracted for claims so well-founded and reasonable, as he likewise has the sacrifices which the United States have made, comparatively with Spain, in the treaty, to which it is proposed to annex so extraordinary and improper a condition.

Had the Minister of Spain offered an unqualified pledge that the treaty should be ratified by his sovereign on being made acquainted with the explanations which had been given by this Government, there would have been a strong motive for accepting and submitting it to the Senate for their advice and consent, rather than to resort to other measures for redress, however justifiable and proper. But he gives no such pledge; on the contrary, he declares explicitly that the refusal of this Government to relinquish the right of judging and acting for itself hereafter, according to circumstances, in regard to the Spanish colonies—a right common to all nations—has rendered it impossible for him, under his instructions, to make such engagement. He thinks that his sovereign will be induced by his communications to ratify the treaty; but still he leaves him free either to adopt that measure or to decline it. He admits that the other objections are essentially removed, and will not in themselves prevent the ratification, provided the difficulty on the third point is surmounted. The result therefore is, that the treaty is declared to have no obligation whatever; that its ratification is made to depend, not on the considerations which led to its adoption, and the conditions which it contains, but on a new article, unconnected with it, respecting which a new negotiation must be opened of indefinite duration and doubtful issue.

Under this view of the subject, the course to be pursued would appear to be direct and obvious, if the affairs of Spain had remained in the state in which they were when this Minister sailed. But it is known that an important change has since taken place in the Government of that country, which cannot fail to be sensibly felt in its intercourse with other nations. The Minister of Spain has essentially declared his inability to act, in consequence of that change. With him, however, under his present powers, nothing could be done. The attitude of the United States must now be assumed, on full consideration of what is due to their rights, their interest, and honor, without regard to the powers or incidents of the late mission. We may, at pleasure, occupy the territory which was intended and provided by the late treaty as an indemnity for losses so long since sustained by our citizens; but still nothing could be settled definitively without a treaty between the two nations. Is this the time to make the pressure? If the United States were governed by views of ambition and aggrandizement, many strong reasons

might be given in its favor. But they have no objects of that kind to accomplish; none which are not founded in justice, and which can be injured by forbearance. Great hope is entertained that this change will promote the happiness of the Spanish nation. The good order, moderation, and humanity which have characterized the movement are the best guarantees of its success. The United States would not be justified in their own estimation should they take any step to disturb its harmony. When the Spanish Government is completely organized, on the principles of this change, as it is expected it soon will be, there is just ground to presume that our differences with Spain will be speedily and satisfactorily settled.

With these remarks, I submit it to the wisdom of Congress whether it will not still be advisable to postpone any decision on this subject until the next session.

JAMES MONROE.

*Recall of Mr. Onís.*

DON FERDINAND THE SEVENTH, King, by the grace of God, of Castile, Leon, and Arragon, of the Two Sicilies, Jerusalem, Navarre, Granada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, the Algarves, Algeiras, Gibraltar, the Canary islands; of the two Indies, and of the islands of the ocean sea; Archduke of Austria; Duke of Burgundy, of Brabant, and Milan; Count of Hapsburg, Flanders, Tyrol, and Barcelona; Lord of Biscay and Molina: To my great and good friends the United States of America:

GREAT AND GOOD FRIENDS: It having been represented to us by Don Luis de Onís, our Envoy Extraordinary and Minister Plenipotentiary to you, that he is desirous to return to Europe, for the recovery of his health, we have thought fit to grant him the necessary permission for that purpose. We have, therefore, authorized him to take his leave of you, and have charged him, in so doing, to assure you of our constant friendship and desire to maintain and strengthen the ties of amity now happily subsisting between us. On his faithful execution of these our commands, we rely with confidence, as we do that you will receive with satisfaction these renewed assurances.

We conclude by commending you to God; and we pray that he would have you in his safe and holy keeping. Your good friend,

FERDINAND.

J. J. M. DE RUIZ DEVALOS.

A true copy:

SAN FERNANDO Y QUIROGA.

MADRID, —, 1819.

*Don Luis de Onís to the Secretary of State.*

MADRID, January 27, 1820.

SIR: Having received from my sovereign an appointment to other duties, and being thereby deprived of the satisfaction of presenting to the President the letters of re-credence of the King, my master, I am under the necessity of transmitting

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them to you, with my request that you would be pleased to lay them before his Excellency the President, to whom you will also make it known that His Majesty, on deciding to terminate my mission to your Government, has commanded me to express to it the assurance of his unalterable desire to maintain the strict friendship now happily subsisting between both Powers.

In fulfilling these orders of my sovereign, permit me, sir, also to express to you the deep sense I entertain of the personal attentions with which I was honored by the President, by yourself in particular, and by the citizens of the Union in general; and to add the assurance that it will ever be to me a subject of the most grateful reflection, if, in the discharge of my duties, and in the execution of the orders of my Government, whose object it always has been to establish the most perfect harmony between the two countries, I shall have been so fortunate as to have acquired the esteem of the President, together with yours.

I pray you, sir, to receive the further assurance of my distinguished sentiments, and my wish that God may preserve you many years.

LUIS DE ONIS.

*Credential letter delivered by General Vives to the President of the United States*

DON FERDINAND THE SEVENTH, King, by the grace of God, of Castile, Leon, and Arragon, of the Two Sicilies, Jerusalem, Navarre, Granada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, the Algarves, Algesiras, Gibraltar, the Canary islands; of the two Indies, and of the islands of the ocean sea; Archduke of Austria; Duke of Burgundy, of Brabant, and Milan; Count of Hapsburg, Flanders, Tyrol, and Barcelona; Lord of Biscay and of Molina: To my great and good friends the United States of America:

GREAT AND GOOD FRIENDS: Being animated by the most sincere desire to maintain the friendship and good understanding happily subsisting between both countries, and it being necessary, to that end, that another person, possessing our entire confidence, should forthwith be deputed to you as a successor to our late Envoy and Minister Plenipotentiary, Don Luis de Onis, to whom we have granted leave to return to Europe for the re-establishment of his health, we have thought fit to confer the said appointment on Don Francisco Dionisio Vives, a Major General of our Armies, Knight of the third class of the Royal and Military Order of Saint Ferdinand, and a member of the Supreme Council of the said order; Knight of the Royal and Military Order of St. Hermenegildo; twice honored by decrees of thanks for patriotic services; decorated with the North Star and crosses of honor for distinguished conduct and valor at the battles of Albuera, Sorauren, Lugo, Tames, and Medina del Campo, also at the surrender of Villa Franca to the army of the left; he uniting the requisite qualifications for the discharge of the said trust:

We therefore hope that, on his presenting to

you this our letter of credence, you will grant him a kind and favorable reception, giving all faith and credit to what he shall say to you on our behalf. Done at Madrid, this 15th day of December, 1819.

FERDINAND.

J. J. M. DE RUIZ DE VALOS.

A true copy:

SAN FERNANDO Y QUIROGA.

*Extract of a letter from Mr. Forsyth (marked private) to Mr. Adams, dated*

JANUARY 28, 1820.

General Vives left this place on the 25th for Paris, on his way to Washington. He went post to France, and I am informed is directed to remain as short a time as possible in Paris. He goes to England to embark for the United States. The alteration in his mode of travelling, and the directions he has received not to delay, give me some hope that he will arrive in America time enough to prevent the necessity of doing that without the consent of Spain which the American Government prefers to do with her consent.

I send this by the way of Gibraltar, that the earliest notice may be had of General Vives's movements. In the course of the coming week I shall write officially, and enclose a copy of my answer to the Duke of San Fernando's last note, written to inform me of General Vives's appointment.

[Referred to in Mr. Forsyth's despatch of January, 28.]  
*Mr. Forsyth to the Duke of San Fernando and Quiroga, First Minister of State, dated*

MADRID, January 27, 1820.

SIR: I have had the honor to receive your Excellency's official of the 16th December, giving me notice of the appointment of the Mariscal-del-Campo Don Francisco Dionisio Vives as Minister Plenipotentiary of the United States. According to the request of your Excellency, I communicated, by the first convenient opportunity that occurred, a copy of your note to the American Government.

The appointment of the Minister Plenipotentiary has been so long delayed, his departure so much procrastinated, his route to the United States is so circuitous, and his movements are so deliberate, that I very much apprehend he will find, on his arrival, the determination, before now taken by the American Government, executed. His Catholic Majesty may be assured by your Excellency that, should this be the case, the American Government will nevertheless, governed by that temper of conciliation which has at all times marked its policy, give any explanations which may, in the spirit of amity, be asked in the name of the King.

Your Excellency views it as superfluous to continue discussions here of the points of the transaction with which His Majesty's Minister goes charged, and as likely to embarrass the course of the direct negotiation. As to the future, I have to inform your Excellency that I have no directions to discuss any of those points; and certainly

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I have received here very slender encouragement voluntarily to encounter them. My duty, in regard to the convention, was terminated when I had the honor to send you the remonstrance of the 18th of October, which has given rise to an unpleasant question between us. From circumstances well known to your Excellency, I understand that the observations quoted have reference also to that question. With this understanding, I give you the strongest proof in my power of my anxious desire to promote harmony between the two nations, by taking upon myself the responsibility of having so long withheld the return of the remonstrance, and in determining still longer to retain it in my hands. I do this with the confident expectation that the justice of His Catholic Majesty has, in the powers given to General Vives, rendered a further recurrence to that unhappy affair altogether unnecessary. While I give to your Excellency this proof of my wishes to conciliate, I must repeat that I hold it as unquestionably my right to have that paper, or any other I may deem it necessary to send, laid before your Excellency's royal master for his perusal and consideration; holding myself responsible to my own Government only for the language in which it may be expressed, or the sentiments it may contain.

I renew to your Excellency the assurances of my profound consideration.

JOHN FORSYTH.

The DUKE OF SAN FERNANDO Y QUIROGA.

*Mr. Gallatin to the Secretary of State.*

PARIS, February 15, 1820.

SIR: General Vives, the new Minister of Spain to the United States, arrived at Paris on the 11th instant, and left it on the 14th for London, with the intention to embark at Liverpool in the New York packet which will sail on the 1st day of March.

Mr. Pasquier, after having seen him, invited me to an interview on the 12th, and said that he was in hopes that the differences might still be adjusted. General Vives had told him that the principal points with Spain were, that the honor of the Crown should be saved (*mis à couvert*) in the business of the grants, and to receive satisfactory evidence of our intention to preserve a fair neutrality in the colonial war. Mr. Pasquier had observed to him that it would be a matter of deep regret that private interest should prevent the conclusion of such an important arrangement; and that, when it was clear that there had been at least a misunderstanding on the subject, the King's dignity could not be injured by a resumption of the grants, or by an exchange for other lands. He seemed to think that this would be arranged, and asked me what I thought we could do respecting the other point. I answered that the fullest reliance might be placed on the fairness of our neutrality, and that I was really at a loss to know what could be added to the measures the United States had already adopted to enforce it. Mr. Pasquier gave me to understand that, if there was any defect, however trifling, in our laws, and that

was amended, it would probably be sufficient to satisfy the pride of Spain, as there now appeared a real desire to ratify, provided it could be done without betraying a glaring inconsistency. He had expressed to General Vives his opinion of the impropriety of asking from the United States any promise not to recognise the independence of the insurgent colonies, and had told him that on that subject Spain could only rely on the moral effect which a solemn treaty, accommodating all her differences with the United States, would have on their future proceedings.

I expressed my hope that the explanation which General Vives was instructed to give on the subject of the grants, and to ask on that of our neutrality, might be such as to remove all the existing difficulties. But it was most important that he should arrive in the United States before the adjournment of Congress, and that he should be the bearer of the King's ratification of the treaty, so that, if every thing was arranged, those ratifications might be at once exchanged at Washington. If that was not done, the President would have no more security that the King would ratify General Vives's than Mr. Onís's acts: and it was impossible to suppose that he would run the risk of a second disappointment. This observation forcibly struck Mr. Pasquier, who said that he would make further inquiries on that point.

I saw, the same evening, the Spanish Ambassador at this Court, and, in the course of a short conversation, he suggested that the grants in dispute might be set aside, the grantees not having fulfilled certain conditions or formalities; and, after acknowledging that General Vives was not the bearer of the King's ratification, he hinted that he was authorized to give the United States satisfactory security that Spain would fulfil her engagements.

On the 13th I dined at the Minister of Foreign Affairs' with General Vives, who repeated to me in substance what he had said to Mr. Pasquier. I told him that the President would judge of the explanations he had to give on the subject of the grants; that he might rely on the determination of the United States to preserve their neutrality, and not less on the manner in which the laws for enforcing it were executed, than on the tenor of those laws, which, I observed, were, and had always been, more full and efficient than those of either England or France on the same subject; that I could not say whether the question of recognising the independence of the insurgent colonies would be agitated during the present session of Congress, but that, if it was, the decision would probably have taken place before his arrival.

I then repeated what I had said to Mr. Pasquier respecting the importance of his being authorized to exchange the ratifications of the treaty. He answered that, although he was not, he could, in case of an arrangement, give satisfactory security to the United States, and that it would consist in consenting that they should take immediate possession of Florida, without waiting for the ratification of the treaty.

General Vives repeated, in the course of the

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evening, the same thing to Mr. Pasquier, with whom I had afterwards a short conversation on the subject. He seemed extremely astonished that the Spanish Government should have adopted that course rather than to authorize their Minister to exchange at once the ratifications. Since, however, the measure they proposed coincided with the views of the President as stated in his Message, and would, at all events, prevent a rupture, we both agreed that no time should be lost in communicating to you General Vives's declarations.

I have the honor to be, &c.

ALBERT GALLATIN.

*Extract of a letter from Mr. Forsyth, Minister Plenipotentiary of the United States in Spain, to Mr. Adams, Secretary of State, dated*

MADRID, February 15, 1820.

By the return of Lieutenant Weaver who came to this place yesterday, with a letter from Captain Stewart, I have a convenient opportunity of sending, enclosed, a copy of my last note to the Duke of San Fernando, (No. 1,) dated the day after General Vives left Madrid. It was written in conformity to what I believe, from the Message at the opening of Congress, to be the wishes of the President. If in this I should unhappily be mistaken, the affair stands in such a state that I can at any moment correct the error. Having informed this Government that I only detain the remonstrance, I can at any moment present it if directed so to do, or if I shall be satisfied that the King has not given such authority to General Vives as will render unnecessary a recurrence to this disgraceful business.

*Extract of a letter from Mr. Forsyth to Mr. Adams.*

MARCH 30, 1820.

Soon after the change of Government was officially made known to me, I determined to see the Duke of San Fernando respecting our affairs, to learn if the powers given to Vives were such that no bad effect would be produced by the recent events upon the relations of Spain with the United States, and to endeavor to procure, in this season of generous feelings, the release of the Americans in confinement. Waiting a few days for the first bustle to be over, the Duke was removed from office, and a further delay unexpectedly occurred. As the new secretary was not expected for some time, on the 27th I asked, by a written note, for an interview with Mr. Jabat, who had charge of the office; it was appointed for the 29th. I saw him at the time fixed, and had a very long conversation with him. I stated the objects I had in view; he answered with great frankness. The substance of what I learned from him is, that General Vives did not carry the treaty ratified by the United States; that the King, having taken the oath to observe the constitution, could not now ratify; that instructions had been just prepared for General Vives to apprise him of the change that had taken place, and of the want of power in the King to act further in the business; the whole

matter would be laid before the Cortes, and the Minister had no doubt it would be arranged to the mutual satisfaction of the two Governments, as the Cortes would probably be composed of the most liberal and enlightened men of the nation—men who had the disposition, the ability, and the courage to give and to act upon good counsel. He spoke of the resemblance of the institutions of the two nations, and of his anxious wish to see them on the best terms. Of the American prisoners he professed a desire to do what would be agreeable to us, and would bring the subject before the King. For this object it was agreed upon between us that I should address him an official note; a copy of it (marked No. 6) is enclosed. It was prepared immediately after the interview, and sent on the 30th. Mr. Jabat asked me, in turn, what would be the determination of our Government in this new state of things. I replied that I was exceedingly disappointed to learn that General Vives had not the ratified treaty to exchange in the United States; that I apprehended his going without it would produce a very bad effect; and that I had no doubt there would be an immediate occupation of Florida, as recommended by the President to Congress; that we had always the strongest desire to be friendly with Spain—a desire which recent circumstances would increase. I was perfectly aware that the King had no power to ratify, and trusted, with him, that every thing would be arranged satisfactorily when the Cortes assembled. In the meantime, I hoped that no unpropitious effect on the dispositions of this Government would be produced by the measures we should have been reluctantly compelled to take. I expressed the greatest satisfaction at the prospect of a favorable answer to the application in favor of the confined Americans, and assured him it would be considered as a conclusive proof, on the part of Spain, of a desire to do us justice and kindness in all things. The revolution will produce the best effects for us, if a judgment is to be formed from the language of the people in office and of those out of office. The Government of the United States is considered, with reason, more friendly to them than any other. The European Governments, without exception, see, in the change which has been produced here, a dangerous example to their people, and speculate with dread upon its probable effect. I had supposed that the influence of Great Britain would be very great under the new order of things; at present, there is a very wholesome jealousy and prejudice against that Government existing among the people, and carefully cherished by the ruling men. It is to be traced, in part, to the conduct of the English on the return of the King from his captivity; they were supposed to have had some agency in preventing at that time the King's acceptance of the constitution. The language used here is, there are but two free nations—the Spaniards and the people of the United States; the English were free, but have been recently enslaved by their Ministry and Parliament. I hope that, before General Vives receives and communicates to the President the change in the Government, Florida will be occupied by us, or at least that

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Congress will have passed a law in such terms as to render it obligatory upon the President to take it. Delaying to take it until the news is received of the establishment of a free Government and liberal institutions here, might be injurious; at present, every body here expects it will be seized, and the event will have no bad effect unless it can, by misrepresentation, be made to appear the consequence of the recent events in Spain. It is important that Florida should be in our possession when the Cortes deliberate on the treaty. The defect of granted authority in that body to cede territory was not adverted to by Mr. Jabat, and has probably escaped notice. The general assertion, that the sovereignty resides essentially in the nation, which is represented by the Cortes, would no doubt be considered sufficient when the territory was held by us; it might admit of dispute if it was not. You will perceive that two deputies from Cuba and the Floridas are to be in the Cortes. Before July I hope to receive from you particular and special instructions on this and all other subjects connected with our interests. During the Cortes would be the most favorable time for a commercial arrangement, if one is to be made here; and I indulge the belief that, should, as is probable, the business of Florida be amicably arranged, an advantageous commercial treaty may be formed. I look with anxiety for directions from you, formed upon the determination Congress may have made.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, April 14, 1820.

SIR: In conformity with the orders of my Government, which were communicated to Mr. Forsyth on the 16th of December last by His Excellency the Duke of San Fernando and Quiroga, and with the earnest desire of the King, my master, to see a speedy adjustment of the existing difficulties which obstruct the establishment, on a permanent basis, of the good understanding so obviously required by the interests of both Powers, I have the honor to address you, and frankly to state to you that my august Sovereign, after a mature and deliberate examination, in full council, of the treaty of 22d February of the last year, saw, with great regret, that, in its tenor, it was very far from embracing all the measures indispensably requisite to that degree of stability which, from his sense of justice, he was anxious to see established in the settlement of the existing differences between the two nations.

The system of hostility which appears to be pursued in so many parts of the Union against the Spanish dominions, as well as against the property of all their inhabitants, is so public and notorious, that to enter into detail would only serve to increase the causes of dissatisfaction. I may be allowed, however, to remark that they have been justly denounced to the public of the United States even by some of their own fellow-citizens.

Such a state of things, therefore, in which individuals may be considered as being at war while

their Governments are at peace with each other, is diametrically opposed to the mutual and sincere friendship and to the good understanding which it was the object of the treaty (though the attempt has failed) to establish, and of the immense sacrifices consented to by His Majesty to promote.

These alone were motives of sufficient weight imperiously to dictate the propriety of suspending the ratification of the treaty, even although the American envoy had not at first announced, in the name of his Government, and subsequently required of that of Spain a declaration which tended directly to annul one of its most clear, precise, and conclusive articles, even after the signature and ratification of the treaty.

The King, my master, influenced by considerations so powerful as to carry with them the fullest evidence, has therefore judged it necessary and indispensable, in the exercise of his duties as a sovereign, to request certain explanations of your Government; and he has, in consequence, given me his commands to propose to it the following points, in the discussion and final arrangement of which it seems proper that the relative state of the two nations should be taken into full consideration:

That the United States, taking into due consideration the scandalous system of piracy established in and carried on from several of their ports, will adopt measures, satisfactory and effectual, to repress the barbarous excesses and unexampled depredations daily committed upon Spain, her possessions, and properties, so as to satisfy what is due to international rights, and is equally claimed by the honor of the American people.

That, in order to put a total stop to any future armaments, and to prevent all aid whatsoever being afforded from any part of the Union, which may be intended to be directed against and employed in the invasion of His Catholic Majesty's possessions in North America, the United States will agree to offer a pledge (*a dar una seguridad*) that their integrity shall be respected.

And, finally, that they will form no relations with the pretended Governments of the revolted provinces of Spain situate beyond sea, and will conform to the course of proceeding adopted, in this respect, by other Powers in amity with Spain.

In submitting to you these just and natural demands, I have received the orders of the King, my master, to make known to the President that they would have been regularly communicated to the Minister Plenipotentiary of the United States at Madrid, if, in the excess of his zeal, he had not, at an early period, been induced to express himself in terms disrespectful to the dignity of His Majesty; and I am, at the same time, commanded to give the assurance that, in alluding to an incident of so unpleasant a nature, it is not intended to make the conduct of Mr. Forsyth a subject of complaint, but merely to make your Government fully acquainted with the motives of my august Sovereign in adopting the resolution as already stated.

I flatter myself that the President, on an attentive examination of the contents of this note, entirely dictated by sentiments of justice, will see

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a decisive evidence of the sincere desire of the King, my master, to attain with promptitude the definitive settlement of a transaction no less important in itself than it is essential to the mutual interests of the two countries.

I eagerly avail myself of this occasion to assure you of my perfect respect and highest consideration. I pray that God may long preserve you.

FRANCISCO D. VIVES.

*The Secretary of State to General Don Francisco Dionisio Vives, Envoy Extraordinary and Minister Plenipotentiary from Spain.*

DEPARTMENT OF STATE,  
Washington, April 18, 1820.

SIR: Before replying to the letter which I have had the honor of receiving from you, dated the 14th instant, I am directed by the President of the United States to request a copy of your full powers, and to be informed whether you are the bearer of the ratification by His Catholic Majesty of the treaty signed on the 22d of February, 1819, by Don Luis de Onís; and are ready, in the event of suitable explanations being given upon the points mentioned in your letter, to exchange the same for the ratification on the part of the United States, if the Senate should advise and consent that such exchange of ratifications should now be accepted.

Please to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, April 19, 1820.

SIR: In answer to your note of yesterday's date, and in compliance with the request stated in its first point, I have the honor to enclose a copy of my full powers.

I have at the same time to inform you that I am not the bearer of the ratification of the treaty of the 22d of February, 1819, signed by Don Luis de Onís; nor does it seem agreeable to the natural course of things, and to established usage, that a treaty should be ratified previous to a removal of the obstacles which have expressly caused the suspension of its ratification; but I am enabled to assure you that I am fully authorized to offer a solemn promise, in the name of the King, my master, that, if the result of the proposals presented in my first note be satisfactory, the ratification of the treaty will be attended with no further delay than the time indispensably necessary for the arrival at Madrid of one of the gentlemen attached to my legation, who has accompanied me for that especial purpose.

I renew to you, sir, the assurance of my distinguished consideration, and I pray God long to preserve you.

FRANCISCO D. VIVES.

JOHN QUINCY ADAMS,  
Secretary of State.

*Full power of General Vives.*

DON FERDINAND THE SEVENTH, King, by the grace of God, of Castile, Leon, and Arragon, of the Two Sicilies, Jerusalem, Navarre, Granada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, the Algarves, Gibraltar, the Canary islands, of both Indies, and of the isles of the ocean; Archduke of Austria; Duke of Burgundy, Brabant, and Milan; Count of Hapsburg, Flanders, Tyrol, and Barcelona; Lord of Biscay and of Molina, &c.

The state of peace, amity, and good understanding, now happily subsisting between us and the United States of North America, being favorable to the mutual and amicable adjustment and settlement of all existing differences between the two Governments; and it being expedient to that end to authorize a person having our confidence, and possessed of the requisite information, experience, and political knowledge for so important a trust, which qualities uniting in you, Don Francisco Dionisio Vives, a Major General in our service, a Knight of the Royal and Military Order of San Fernando, and member of the Supreme Council of the said Order, a Knight of the Royal and Military Order of San Hermenegildo, twice honored by decrees of thanks for public services, decorated with the Order of the North Star and crosses of honor for distinguished conduct and valor at the battles of Albuera, Sorauren, Lugo, Tamañes, and Medina del Campo, the surrender of Villa Franca del Bierzo, in the operations of the army of the left at the sieges of Pampeluna and Bayonne, and our Envoy Extraordinary and Minister Plenipotentiary to the abovenamed States:

We have authorized, and by these presents we do authorize you, granting you full power, in the most ample form, to meet and confer with such person or persons as may be duly authorized by the Government of the United States, and with him or them to settle, conclude, and sign whatsoever you may judge necessary to the best arrangement of all points depending between the two Governments; promising, as we do hereby promise upon the faith and word of a King, to approve, ratify, and fulfil such articles or agreements as you may conclude and sign.

In testimony whereof, I have commanded the present to be issued, signed by us, sealed with our privy seal, and countersigned by the undersigned, our principal Secretary of State and of Universal Despatch. Given at Madrid, the 15th of December, 1819.

I, THE KING.

J. J. M. DE RUIZ DE VALOS.

*The Secretary of State to General Don Francisco Dionisio Vives.*

DEPARTMENT OF STATE,  
Washington, April 21, 1820.

SIR: I am directed by the President of the United States to express to you the surprise and concern with which he has learned that you are not

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the bearer of the ratification by His Catholic Majesty of the treaty signed on the 22d February, 1819, by Don Luis de Onís, by virtue of a full power equally comprehensive with that which you have now produced—a full power, by which His Catholic Majesty promised, “on the faith and word of a King, to approve, ratify, and fulfil whatsoever might be stipulated and signed by him.”

By the universal usage of nations, nothing can release a sovereign from the obligation of a promise thus made, except the proof that his Minister, so empowered, has been faithless to his trust, by transcending his instructions.

Your sovereign has not proved, nor even alleged, that Mr. Onís had transcended his instructions; on the contrary, with the credential letter which you have delivered, the President has learned that he has been relieved from the mission to the United States only to receive a new proof of the continued confidence of His Catholic Majesty, in the appointment to another mission of equal dignity and importance.

On the faith of this promise of the King, the treaty was signed and ratified on the part of the United States; and contained a stipulation that it should also be ratified by His Catholic Majesty, so that the ratifications should, within six months from the date of its signature, be exchanged.

In withholding this promised ratification beyond the stipulated period, His Catholic Majesty made known to the President that he should forthwith despatch a person possessing entirely his confidence to ask certain explanations which were deemed by him necessary previous to the performance of his promise to execute the ratification.

The Minister of the United States at Madrid was enabled, and offered, to give all the explanations which could justly be required in relation to the treaty. Your Government declined even to make known to him their character; and they are now, after the lapse of more than a year, first officially disclosed by you.

I am directed by the President to inform you that explanations which ought to be satisfactory to your Government will readily be given upon all the points mentioned in your letter of the 14th instant; but that he considers none of them, in the present state of the relations between the two countries, as points for discussion. It is indispensable that, before entering into any new negotiation between the United States and Spain, that relating to the treaty already signed should be closed. If, upon receiving the explanations which your Government has asked, and which I am prepared to give, you are authorized to issue orders to the Spanish officers commanding in Florida to deliver up to those of the United States who may be authorized to receive it, immediate possession of the province, conformably to the stipulations of the treaty, the President, if such shall be the advice and consent of the Senate, will wait, with such possession given, for the ratification of His Catholic Majesty; till your messenger shall have time to proceed to Madrid; but, if you have no such authority, the President considers it would

be at once an unprofitable waste of time, and a course incompatible with the dignity of this nation, to give explanations which are to lead to no satisfactory result, and to resume a negotiation the conclusion of which can no longer be deferred.

Be pleased to accept the assurances of my distinguished consideration.

JOHN QUINCY ADAMS.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, April 24, 1820.

SIR: In acknowledging the receipt of your note of the 21st instant, I have the honor to remark, in the first place, that you appear to have misconceived a material part of my letter of the 14th, by reproducing arguments which have been already sufficiently refuted by my Government. You will, therefore, excuse me from reviving them here, in so far as they relate to the question whether a Sovereign is or is not bound to ratify what may have been signed by his negotiator, it being well known that various instances may be cited of cases in which the ratification of a treaty has been justly suspended, without alleging, as the motive for so doing, that the negotiator had transcended his powers or instructions. There may, unquestionably, be other reasons sufficiently valid to exonerate him from the obligation of ratifying, supposing that to have been the case.

It is evident that the scandalous proceedings of a number of American citizens, the decisions of several of the courts of the Union, and the criminal expedition set on foot within it for the invasion of His Majesty's possessions in North America, at the very period when the ratification was still pending, were diametrically opposite to the most sacred principles of amity, and to the nature and essence of the treaty itself. These hostile proceedings were, notwithstanding, tolerated by the Federal Government, and thus the evil was daily aggravated; so that the belief generally prevailed throughout Europe that the ratification of the treaty by Spain, and the acknowledgment of the independence of her rebellious transatlantic colonies by the United States, would be simultaneous acts. The pretensions advanced by Mr. Forsyth, in relation to the eighth article, were also evidently calculated to render that treaty illusory. It is, therefore, not possible to assign reasons more powerful, or more completely justificatory of the sovereign resolution of the King, my master, to suspend his ratification of that instrument.

In my first note, I also hinted at the offensive terms employed by the American Minister at Madrid, from the very outset; which you notice no further than by taking up the second point, upon which the one which I now have the honor to contest essentially turns. Although His Majesty might certainly have kept aloof from a deportment so void of moderation, and so derogatory to his dignity, it is obvious that any discussions commenced with the Minister so situated were only likely to produce unprofitable results—his correspondence tending more powerfully to disu-



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nite than to reconcile the contracting parties. It was, indeed, a subject of great regret that the incident just referred to, the distance of Spain from the New World, which, from the obstructions to correspondence, produced unavoidable delay in receiving correct information of the events passing here, and which to His Majesty appeared incredible, and, in fine, his wish to avoid whatever had the appearance of an unfounded complaint and an unpleasant difference between the two Governments, should have retarded my arrival, and the happy conclusion of the transaction now pending.

I have further to state to you, that I am not authorized by His Majesty to give the necessary orders to the Spanish authorities in the Floridas to deliver up those possessions to the United States; nor was this to be presumed, since, if it appeared contrary to the natural order of things and to established usage that the treaty should be ratified previous to receiving the explanations which necessitated its suspension, it would consequently seem the more so that it should receive its due accomplishment before it was finally ratified.

It is with equal surprise and concern that I observe, in the conclusion of your note, that you intimate the intention to decline any discussion of my proposals previous to the possession of the Floridas, since it appears to me that such discussions could not be long, in the event of your Government being ready to accede to them; (in which case I repeat that I am authorized solemnly to promise, in the name of His Majesty, that the ratification of the treaty shall be no longer delayed;) nor that the delay unavoidably produced by that particular cause, in the occupation of the territories in question, could be considered as derogatory to the dignity of the United States; and the more so as, until then, His Catholic Majesty would not be in the full possession of his rights.

I flatter myself that, on a consideration of the contents of this note, you will favor me with an answer more agreeable to my wishes.

In the mean time I reiterate the assurance of my distinguished consideration and respect, praying God to preserve you many years.

FRANCISCO D. VIVES.

*Extract of a letter from Mr. Thomas L. L. Brent, acting as Chargé d'Affaires at Madrid, containing the substance of a conversation between him and Mr. Jabat, 27th April, 1820, to Mr. Adams.*

He [Mr. Jabat] then adverted to the bill reported by the Committee of Foreign Relations to the House of Representatives, for the occupation of Florida, asked me if I had received instructions to give any explanations on the subject. He intimated that, if we did not extend our views farther than its occupation, every effort would be made to preserve amicable relations with the United States—every sacrifice, consistent with a due self-respect; but that the United States ought not to expect Spain would go any farther. Now that this had become a representative Government, they would be under the necessity of examining, with more scrupulous attention than ever, every act of

theirs which could, in any degree, compromise the just pride and dignity of the nation. I told Mr. Jabat I had no instructions on the subject; I only knew, I said, from the public papers, that such a bill was before Congress, and, consequently, did not feel authorized to give any explanations; that, as soon as I received, I would make them known to him. I begged him to tranquillize himself; I said I hoped, with such dispositions as were manifested by the new Government, and the corresponding sentiments of mine, that every thing would finally be amicably arranged, and that matters might be so managed as that the steps which the United States may have thought it necessary to take for the assertion of their rights might be made reconcileable with the pride of his Government—steps which they will have been compelled to resort to, from the conduct of the former administration of his Government, and the measures of the old system. It may be proper to notice that this Minister was evidently under an apprehension that the United States might not limit themselves to the occupation of the territory of Florida alone. In the course of the conversation, Mr. Jabat said that, as there would be opposition, blood might be spilt in the occupation of Florida; and the idea of it seemed to give him great pain. Mr. Jabat's manner during the whole of this interview was mild and friendly, and mine corresponded to his.

*The Secretary of State to General Don Francisco Dionisio Vives, Envoy Extraordinary and Minister Plenipotentiary from Spain.*

DEPARTMENT OF STATE,  
Washington, May 3, 1820.

SIR: The explanations upon the points mentioned in your letter of the 14th ultimo, which I had the honor of giving you at large in the conference between us on Saturday last, and the frankness of the assurances which I had the pleasure of receiving from you, of your conviction that they would prove satisfactory to your Government, will relieve me from the necessity of recurring to circumstances which might tend to irritating discussions. In the confident expectation that, upon the arrival of your messenger at Madrid, His Catholic Majesty will give his immediate ratification to the treaty of the 22d February, 1819, I readily forbear all reference to the delays which have hitherto retarded that event, and all disquisition upon the perfect right which the United States have had to that ratification.

I am now instructed to repeat the assurance which has already been given you, that the representations which appear to have been made to your Government of a system of hostility, in various parts of this Union, against the Spanish dominions and the property of Spanish subjects, of decisions marked with such hostility by any of the courts of the United States, and of the toleration in any case of it by this Government, are unfounded. In the existing unfortunate civil war between Spain and the South American provinces, the United States have constantly avowed, and faithfully maintained, an impartial neutrality.

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No violation of that neutrality by any citizen of the United States has ever received sanction or countenance from this Government. Whenever the laws previously enacted for the preservation of neutrality have been found, by experience, in any manner defective, they have been strengthened by new provisions and severe penalties. Spanish property, illegally captured, has been constantly restored by the decisions of the tribunals of the United States; nor has the *life itself* been spared of individuals guilty of piracy committed upon Spanish property on the high seas.

Should the treaty be ratified by Spain, and the ratification be accepted, by and with the advice and consent of the Senate, the boundary line recognised by it will be respected by the United States, and due care will be taken to prevent any transgression of it. No new law or engagement will be necessary for that purpose. The existing laws are adequate to the suppression of such disorders, and they will be, as they have been, faithfully carried into effect. The miserable disorderly movement of a number of (not exceeding seventy) lawless individual stragglers, who never assembled within the jurisdiction of the United States, into a territory to which His Catholic Majesty has no acknowledged right other than the yet unratified treaty, was so far from receiving countenance or support from the Government of the United States, that every measure necessary for its suppression was promptly taken under their authority; and, from the misrepresentations which have been made of this very insignificant transaction to the Spanish Government, there is reason to believe that the pretended expedition itself, as well as the gross exaggerations which have been used to swell its importance, proceed from the same sources, equally unfriendly to the United States and to Spain.

As a necessary consequence of the neutrality between Spain and the South American provinces, the United States can contract no engagement not to form any relations with those provinces. This has explicitly and repeatedly been avowed and made known to your Government, both at Madrid and at this place. The demand was resisted both in conference and written correspondence between Mr. Erving and Mr. Pizarro. Mr. Onís had long and constantly been informed that a persistence in it would put an end to the possible conclusion of any treaty whatever. Your sovereign will perceive that, as such an engagement cannot be contracted by the United States, consistently with their obligations of neutrality, it cannot be justly required of them; nor have any of the European nations ever bound themselves to Spain by such an engagement.

With regard to your *proposals*, it is proper to observe that His Catholic Majesty, in announcing his purpose of asking *explanations* of the United States, gave no intimation of an intention to require new articles to the treaty. You are aware that the United States cannot, consistently with what is due to themselves, stipulate new engagements as the price of obtaining the ratification of the old. The declaration which Mr. Forsyth was

instructed to deliver at the exchange of the ratifications of the treaty, with regard to the eighth article, was not intended to annul, or in the slightest degree to alter or impair, the stipulations of that article; its only object was to guard your Government, and all persons who might have had an interest in any of the annulled grants, against the possible expectation or pretence that those grants would be made valid by the treaty. All grants subsequent to the 24th January, 1818, were declared to be positively null and void; and Mr. Onís always declared that he signed the treaty, fully believing that the grants to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, were subsequent to that date. But he had, in his letter to me of 16th November, 1818, declared that those grants were null and void, because the essential conditions of the grants had not been fulfilled by the grantees. It was distinctly understood by us both that no grant, of whatever date, should be made valid by the treaty, which would not have been valid by the laws of Spain and the Indies, if the treaty had not been made. It was therefore stipulated that grants prior to the 24th January, 1818, should be confirmed only "to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty." This, of course, excluded the three grants above mentioned, which Mr. Onís had declared invalid for want of the fulfilment of their essential conditions—a fact which is now explicitly admitted by you. A single exception to the principle that the treaty should give no confirmation to any imperfect title was admitted; which exception was, that owners in possession of lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, had been prevented from fulfilling all the conditions of their grants, should complete them within the terms limited in the same from the date of the treaty. This had obviously no reference to the above-mentioned grants, the grantees of which were not in possession of the lands, who had fulfilled none of their conditions, and who had not been prevented from fulfilling any of them by the circumstances of Spain or the revolutions of Europe. The article was drawn up by me, and, before assenting to it, Mr. Onís inquired what was understood by me as the import of the terms "shall complete them." I told him that, in connexion with the terms "all the conditions," they necessarily implied that the indulgence would be limited to grantees who had performed some of the conditions, and who had commenced settlements, which it would allow them to complete. These were precisely the cases for which Mr. Onís had urged the equity of making a provision, and he agreed to the article, fully understanding that it would be applicable only to them. When, after the signature of the treaty, there appeared to be some reason for supposing that Mr. Onís had been mistaken in believing that the grants to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, were subsequent to the 24th of January, 1818, and required that Spain and the grantees should never have a shadow of ground to expect or allege

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that this circumstance was at all material in relation to the bearing of the treaty upon those grants. Mr. Onis had not been mistaken in declaring that they were invalid, because their conditions were not fulfilled. He had not been mistaken in agreeing to the principle that no grant invalid as to Spain should, by the treaty, be made valid against the United States. He had not been mistaken in the knowledge that those grantees had neither commenced settlements, nor been prevented from completing them by the circumstances of Spain or the revolutions in Europe. The declaration which Mr. Forsyth was instructed to deliver was merely to caution all whom it might concern not to infer, from an unimportant mistake of Mr. Onis as to the date of the grants, other important mistakes which he had not made, and which the United States would not permit to be made by any one. It was not, therefore, to annul or to alter, but to fulfil the eighth article as it stands, that the declaration was to be delivered; and it is for the same purpose that this explanation is now given. It was with much satisfaction, therefore, that I learned from you the determination of your Government to assent to the total nullity of the above-mentioned grants.

As I flatter myself that these explanations will remove every obstacle to the ratification of the treaty by His Catholic Majesty, it is much to be regretted that you have not that ratification to exchange, nor the power to give a pledge which would be equivalent to the ratification. The six months within which the exchange of the ratifications were stipulated by the treaty having elapsed, by the principles of our Constitution the question whether it shall now be accepted must be laid before the Senate for their advice and consent. To give a last and signal proof of the earnest wish of this Government to bring to a conclusion these long-standing and unhappy differences with Spain, the President will so far receive that solemn promise of immediate ratification, upon the arrival of your messenger at Madrid, which, in your note of the 19th ultimo, you declare yourself authorized, in the name of your sovereign, to give, as to submit it to the Senate of the United States whether they will advise and consent to accept it for the ratification of the United States heretofore given.

But it is proper to apprise you that, if this offer be not accepted, the United States, besides being entitled to resume all the rights, claims, and pretensions which they had renounced by the treaty, can no longer consent to relinquish their claims of indemnity, and those of their citizens, from Spain, for all the injuries which they have suffered, and are suffering, by the delay of His Catholic Majesty to ratify the treaty. The amount of claims of the citizens of the United States, which existed at the time when the treaty was signed, far exceeded that which the United States consented to accept as indemnity. Their right of territory was, and yet is, to the Rio del Norte. I am instructed to declare that, if any further delay to the ratification by His Catholic Majesty of the treaty should occur, the United States could not

hereafter accept either of \$5,000,000 for the indemnities due to their citizens by Spain, nor of the Sabine for the boundary between the United States and the Spanish territories.

Please to accept the renewed assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, May 5, 1820.

SIR: In answer to your note of the 3d instant, and in pursuance of what I expressed to you in both our late conferences, I have to state to you that I am satisfied upon the first point of the proposals contained in my note of the 14th ultimo, and am persuaded that, if the existing laws enacted for the suppression of piracy should prove inadequate, more effectual measures will be adopted by your Government for the attainment of that important object.

I also admit as satisfactory the answer given to the second point, but I cannot assent to your assertion that the laws of this country have always been competent to the prevention of the excesses complained of, it being quite notorious that the expedition alluded to has not been the only one set on foot for the invasion of His Majesty's dominions; and it is, therefore, not surprising that the King, my Lord, should give credit to the information received in relation to that expedition, or that he should now require of your Government a pledge that the integrity of the Spanish possessions in North America shall be respected.

I mentioned to you, in conference, and I now repeat it, that the answer to the third point was not such as I could, agreeably to the nature of my instructions, accept as being satisfactory; and that, although His Majesty might not have required of any of the European Governments the declaration which he has required of yours, yet that ought not to be considered as unreasonable, it being well known to the King, my master, that those Governments, so far from being disposed to wish to recognise the insurgent Governments of the Spanish colonies, had declined the invitation intimated to them some time past by yours, to acknowledge the pretended Republic of Buenos Ayres. I notwithstanding renew to you the assurance that I will submit to His Majesty the verbal discussion we have had upon this point, and accompany it with such additional arguments as will, in my judgment, probably determine His Majesty to declare himself to be satisfied therewith.

In the event of the King's receiving as satisfactory the answer of your Government to the third point of my proposals, the abrogation of the grants will be attended with no difficulty; nor has that ever been the chief motive for suspending the ratification of the treaty; for the thorough comprehension of which I waive at present any reply to the remarks which you are pleased to offer on that topic. I cannot, however, refrain from stating to you that, in discussing with you the validity or the nullity of the grants above mentioned, I merely

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said that, "in my private opinion, they are null and void, through the inability of the grantees to comply with the terms of the law."

It is to me a matter of great regret that I have it not in my power to repeat the solemn promise that His Majesty will ratify the treaty; inasmuch as I cannot, agreeably to my instructions, accept as satisfactory the answer given to the third point of my proposals. I am, however, persuaded that His Majesty, upon consideration of the representation which I shall have the honor to lay before him, and of the reasons assigned by your Government for withholding its assent to the third point, will consider himself as satisfied, and ratify the treaty.

I further conceive it my duty to state to you that, at the time when I communicated to your Government the substance of my present answer, I mentioned, speaking of my individual capacity, that, although I had no official information of it, yet I consider as authentic the current intelligence of an important change said to have taken place in the Government of Spain; and that this circumstance alone would impose on me the obligation of giving no greater latitude to my promise previous to my receiving new instructions.

I therefore hope that your Government, upon consideration of what I have now submitted to you, and of the contents of my former notes, will agree to wait the final decision of the King, my master, upon the only point still pending, and the adjustment of which is not within my competency; so that the past differences may be satisfactorily terminated, and the treaty receive its final accomplishment; thereby securing and perpetuating a perfect harmony and good understanding between the two Governments.

Be pleased to accept the assurances of my distinguished consideration. I pray God to preserve you many years.

FRANCISCO D. VIVES.

*The Secretary of State to General Vives.*

DEPARTMENT OF STATE,  
Washington, May 6, 1820.

SIR: In the letter which I have had the honor of receiving from you, dated yesterday, you observe that you renew the assurance that you will submit to His Majesty the verbal discussion we have had on the third point, concerning which you were instructed to ask for explanations. I have to request of you to state specifically the representation which you propose to make to His Majesty of what passed between us in conference on this subject.

I pray you to accept the renewed assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, May 7, 1820.

SIR: I have received the note you were pleased to address to me of yesterday's date, and, in answer

thereto, I have to state that the verbal discussion between us upon the third point of my proposals is comprised in your note of the 3d, and in my reply of the 5th instant; and that, consequently, the statement of it which I shall transmit for His Majesty's information will be in strict accordance with the tenor of the said notes.

I renew to you the assurance of my high esteem, and I pray God to preserve you many years.

FRANCISCO D. VIVES.

*The Secretary of State to General Don Francisco Dionisio Vives, Envoy Extraordinary and Minister Plenipotentiary of Spain.*

DEPARTMENT OF STATE,  
Washington, May 8, 1820.

SIR: In the letter which I had the honor of writing to you on the 3d instant, it was observed that all reference would readily be waived to the delays which have retarded the ratification by His Catholic Majesty of the treaty of the 22d February, 1819, and all disquisition upon the perfect right of the United States to that ratification, in the confident expectation that it would be immediately given upon the arrival of your messenger at Madrid, and subject to your compliance with the proposal offered you in the same note, as the last proof which the President could give of his reliance upon the termination of the differences between the United States and Spain by the ratification of the treaty.

This proposal was, that, upon the explanations given you on all the points noticed in your instructions, and with which you had admitted yourself to be personally satisfied, you should give the solemn promise, in the name of your sovereign, which, by your note of the 19th ultimo, you had declared yourself authorized to pledge, that the ratification should be given immediately upon the arrival of your messenger at Madrid: which promise the President consented so far to receive as to submit the question for the advice and consent of the Senate of the United States, whether the ratification of Spain should, under these circumstances, be accepted in exchange for that of the United States heretofore given. But the President has, with great regret, perceived by your note of the 15th instant that you decline giving even that unconditional promise, upon two allegations; one, that, although the explanations given you on one of the points mentioned in your note of the 14th ultimo are satisfactory to yourself, and you hope and believe will prove so to your sovereign, they still were not such as you were authorized by your instructions to accept; and the other, that you are informed a great change has recently occurred in the Government of Spain, which circumstance alone would prevent you from giving a further latitude to your promise previous to your receiving new instructions.

It becomes, therefore, indispensably necessary to show the absolute obligation by which His Catholic Majesty was bound to ratify the treaty within the term stipulated by one of its articles, that the reasons alleged for his withholding the ratifica-

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tion are altogether insufficient for the justification of that measure, and that the United States have suffered by it the violation of a perfect right, for which they are justly entitled to indemnity and satisfaction—a right further corroborated by the consideration that the refusal of ratification necessarily included the non-fulfilment of another compact between the parties which had been ratified—the convention of August, 1802.

While regretting the necessity of producing this proof, I willingly repeat the expression of my satisfaction at being relieved from that of enlarging upon other topics of an unpleasant character. I shall allude to none of those upon which you have admitted the explanations given to be satisfactory, considering them as no longer subjects of discussion between us or our Governments. I shall with pleasure forbear noticing any remarks in your notes concerning me, which might otherwise require animadversion.

With the view of confining this letter to the only point upon which further observation is necessary, it will be proper to state the present aspect of the relations between the contracting parties.

The treaty of the 22d February, 1819, was signed after a succession of negotiations of nearly twenty years' duration, in which all the causes of difference between the two nations had been thoroughly discussed, and with a final admission on the part of Spain that there were existing just claims on her Government, at least to the amount of five millions of dollars, due to citizens of the United States, and for the payment of which provision was made by the treaty. It was signed by a Minister who had been several years residing in the United States in constant and unremitting exertions to maintain the interests and pretensions of Spain involved in the negotiation—signed after producing a full power, by which, in terms as solemn and as sacred as the hand of a sovereign can subscribe, His Catholic Majesty had promised to approve, ratify, and fulfil whatever should be stipulated and signed by him.

You will permit me to repeat that, by every principle of natural right, and by the universal assent of civilized nations, nothing can release the honor of a sovereign from the obligation of a promise thus unqualified, without the proof that his Minister has signed stipulations unwarranted by his instructions. The express authority of two of the most eminent writers upon national law to this point were cited in Mr. Forsyth's letter of 2d October, 1818, to the Duke of San Fernando. The words of Vattel are: "But to refuse with honor to ratify that which has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it; and, particularly, he must show that his Minister transcended his instructions"\* The words of Martens are: "Every thing that has been stipulated by an agent, in

conformity to his full powers, ought to become obligatory on the State from the moment of signing, without ever waiting for the ratification. However, not to expose a State to the errors of a single person, it is now become a general maxim that public conventions do not become obligatory until ratified. The motive of this custom clearly proves that the ratification can never be refused with justice, except when he who is charged with the negotiation, keeping within the extent of his public full powers, has gone beyond his secret instructions, and consequently rendered himself liable to punishment, or when the other party refuses to ratify."\* In your letter of the 24th ultimo, you observe that these positions have already been refuted by your Government, which makes it necessary to inquire, as I with great reluctance do, how they have been refuted.

The Duke of San Fernando, in his reply to this letter of Mr. Forsyth, says, maintains, and repeats, "that the very authorities cited by Mr. Forsyth literally declare that the sovereign, for strong and solid reasons, or if his Minister has exceeded his instructions, may refuse his ratification; (*Vattel*, book 2, chap. 12,) and that public treaties are not obligatory until ratified."—*Martens*, book 2, chap. 3. See note. In these citations the Duke of San Fernando has substituted for the connective term *and*, in Vattel, which makes the proof of instructions transcended indispensable to justify the refusal of ratification, the disjunctive term *or*, which presents it as an alternative, and unnecessary on the contingency of other existing and solid reasons. Vattel says the sovereign must have strong and solid reasons, and particularly must show that the Minister transcended his instructions. Vattel not only makes the breach of instructions indispensable, but puts upon the sovereign the obligation of proving it. The Duke of San Fernando cites Vattel not only as admitting that other reasons, without a breach of instructions, may justify a refusal of ratification, but that the mere fact of such a breach would also justify the refusal, without requiring that the sovereign allegation should prove it.

Is this refutation?

The only observation that I shall permit myself to make upon it is, to mark how conclusive the authority of the passage in Vattel must have been to the mind of him who thus transformed it to the purpose for which he was contending. The cita-

\* "Ce qui a été stipulé par un subalterne en conformité de son plein-pouvoir devient à la rigueur obligatoire pour la nation du moment même de la signature sans que la ratification soit nécessaire. Cependant, pour ne pas abandonner le sort des États aux erreurs d'un seul, il a été introduit par un usage généralement reconnu que les conventions publiques ne deviennent obligatoires que lorsqu'elles ont été ratifiées. Le motif de cet usage indique assez qu'on ne peut y provoquer avec justice, que lorsque celui qui est chargé des affaires de l'État, en se tenant dans les bornes de son plein-pouvoir publique, a franchi celle, de son instruction secrète, et que, par conséquent, il s'est rendu punissable."—*Liv. 2, ch. 3, § 31.*

\* "Mais pour refuser avec honneur de ratifier ce qui a été conclu en vertu d'un plein-pouvoir, il faut que le souverain en ait de fortes et solides raisons, et qu'il fasse voir, en particulier, que son ministre s'est écarté de ses instructions.—*Liv. 2, ch. 12, § 156.*

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tion from Martens receives the same treatment. The Duke of San Fernando takes by itself a part of a sentence—"that public treaties are not obligatory until ratified." He omits the preceding sentence, by which Martens asserts that a treaty signed in conformity to full powers is in rigor obligatory from the moment of signature, without waiting for the ratification. He omits the part of the sentence cited, which ascribes the necessity of a ratification to a usage founded upon the danger of exposing a State to the errors of its Minister. He omits the following sentence, which explicitly asserts that this usage can never be resorted to in justification of a refusal to ratify, unless when the Minister has exceeded his secret instructions; and thus, with this half of a sentence, stripped of all its qualifying context, the Duke brings Martens to assert that which he most explicitly denies.

Is this refutation?

While upon this subject, permit me to refer you to another passage of Vattel, which I the more readily cite, because, independent of its weight as authority, it places this obligation of sovereigns upon its immovable foundation of eternal justice in the law of nature. "It is shown by the law of nature that he who has made a promise to any one has conferred upon him a true right to require the thing promised; and that, consequently, not to keep a perfect promise is to violate the right of another, and is as manifest an injustice as that of depriving a person of his property. All the tranquillity, the happiness, and security of the human race rest on justice, on the obligation of paying a regard to the rights of others. The respect of others for our rights of domain and property constitutes the security of our actual possessions. The faith of promises is our security for the things that cannot be delivered or executed on the spot. There would be no more security, no longer any commerce between mankind, did they not believe themselves obliged to preserve their faith and keep their word. This obligation is then as necessary as it is natural and indubitable between nations that live together in a state of nature, and acknowledge no superior upon earth, to maintain order and peace in their society. Nations and their conductors ought, then, to keep their promises and their treaties inviolable. This great truth, though too often neglected in practice, is generally acknowledged by all nations."\*

\* "On démontre en droit naturel, que celui qui promet à quelqu'un a lui conféré un véritable droit d'exiger la chose promise; et que, par conséquent, ne point garder une promesse parfaite, c'est violer le droit d'autrui, c'est une injustice aussi manifeste que celle de dépouiller quelqu'un de son bien. Toute la tranquillité, le bonheur, et la sûreté du genre humain reposent sur la justice, sur l'obligation de respecter les droits d'autrui. Le respect des autres pour nos droits de domaine et de propriété fait la sûreté de nos possessions actuelles; la foi des promesses est notre garant pour les choses qui ne peuvent être livrées ou exécutées sur-le-champ. Plus de sûreté, plus de commerce, entre les hommes, s'ils ne se croient point obligés de garder la foi, de tenir leur parole. Cette obligation est, donc, aussi nécessaire qu'elle est naturelle et indu-

The melancholy allusion to the frequent practical neglect of this unquestionable principle would afford a sufficient reply to your assertion that the ratification of treaties has often been refused, though signed by Ministers with unqualified full powers, and without breach of their instructions. No case can be cited by you in which such a refusal has been justly given; and the fact of refusal, separate from the justice of the case, amounts to no more than the assertion that sovereigns have often violated their engagements and their duties; the obligation of His Catholic Majesty to ratify the treaty signed by Mr. Onís is therefore complete.

The sixteenth and last article of this treaty is in the following words: "The present treaty *shall be ratified*, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, *or sooner if possible*." On the faith of His Catholic Majesty's promise, the treaty was, immediately after its signature, ratified on the part of the United States, and, on the 18th of May following, Mr. Forsyth, by an official note, informed the Marquis of Casa Yrujo, then Minister of Foreign Affairs at Madrid, that the treaty, duly ratified by the United States, had been intrusted to him by the President, and that he was prepared to exchange it for the ratification of Spain. He added that, from the nature of the engagement, it was desirable that the earliest exchange should be made, and that the American ship of war *Hornet* was waiting in the harbor of Cadiz, destined in a few days to the United States, and affording an opportunity peculiarly convenient of transmitting the ratified treaty to the United States.

No answer having been returned to this note, on the 4th of June Mr. Forsyth addressed to the same Minister a second, urging, in the most respectful terms, the necessity of the departure of the *Hornet*, the just expectation of the United States that the ratified treaty would be transmitted by that vessel, and the disappointment which could not fail to ensue should she return without it.

After fifteen days of further delay, on the 19th of June, Mr. Forsyth was informed by a note from Mr. Salmon, successor to the Marquis of Casa Yrujo, that "His Majesty, on reflecting on the great importance and interest of the treaty in question was under the indispensable necessity of *examining* it with the greatest caution and deliberation before he proceeded to ratify it, and this was all he was enabled to communicate to Mr. Forsyth on that point."

Thus, after the lapse of more than a month from the time of Mr. Forsyth's first note, and of more than two months from the time when your Government had received the treaty, with knowledge

bitable entre les nations qui vivent ensemble dans l'état de nature, et qui ne connaissent point de supérieur sur la terre, pour maintenir l'ordre et la paix dans leur société. Les nations et leurs conducteurs doivent, donc, garder inviolablement leurs promesses et leurs traités. Cette grande vérité, quoique trop souvent négligée dans la pratique, est généralement reconnue de toutes les nations."—*Liv. 2, ch. 12, § 163.*

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that it had been ratified by the United States, the ratification of a treaty which His Catholic Majesty had solemnly promised, so that it might be exchanged within six months from the date of its signature, *or sooner if possible*, was withheld merely to give time to His Catholic Majesty to *examine it*; and this treaty was the result of a twenty years' negotiation, in which every article and subject contained in it had been debated and sifted to the utmost satiety between the parties, both at Washington and Madrid—a treaty in which the stipulations by the Spanish Minister had been sanctioned by successive references of every point to his own Government, and were, by the formal admission of your own note, fully within the compass of his instructions.

If, under the feeling of such a procedure on the part of the Spanish Government, the Minister of the United States appealed to the just rights of his country in expressions suited more to the sense of its wrongs than to the courtesies of European diplomacy, nothing had till then occurred which could have restrained your Government from asking of him any explanation which could be necessary for fixing its determination upon the ratification. No explanation was asked of him.

Nearly two months afterwards, on the 10th of August, Mr. Forsyth was informed that the King would not come to a final decision upon the ratification without previously entering into several explanations with the Government of the United States, to some of which that Government had given rise, and that His Majesty had charged a person possessed of his full confidence, who would forthwith make known to the United States His Majesty's intentions. Mr. Forsyth offered himself to give every explanation which could be justly required; but your Government declined receiving them from him, assigning to him the shortness of the time—a reason altogether different from that which you now allege, of the disrespectful character of his communications.

From the 10th of August till the 14th of last month, a period of more than eight months, passed over, during which no information was given by your Government of the nature of the explanations which would be required. The Government of the United States, by a forbearance perhaps unexampled in human history, has patiently waited for your arrival, always ready to give, in candor and sincerity, every explanation that could with any propriety be demanded. What, then, must have been the sentiments of the President upon finding, by your note of the 14th ultimo, that, instead of explanations, His Catholic Majesty has instructed you to demand the negotiation of another treaty, and to call upon the United States for stipulations derogatory to their honor, and incompatible with their duties as an independent nation? What must be the feelings of this nation to learn that, when called upon to state whether you were the bearer of His Catholic Majesty's ratification of the treaty to be exchanged upon the explanations demanded being given, you explicitly answered that you were *not*? And, when required to say whether you are authorized,

as a substitute for the ratification, to give the pledge of immediate possession of the territory from which the acknowledged just claims of the citizens of the United States were stipulated to be indemnified, you still answer that you are not; but refer us back to a solemn promise of the King, already pledged before in the full power to your predecessor, and to a ratification as soon as possible, already stipulated in vain by the treaty which he, in full conformity to his instructions, had signed?

The ratification of that treaty can now no longer be accepted by this Government without the concurrence of a Constitutional majority of the Senate of the United States, to whom it must be again referred. Yet even this promise you were, by my letter of the 3d instant, informed that, rather than abandon the last hope of obtaining the fulfilment of His Catholic Majesty's promise already given, the President would, so far as was constitutionally within his power, yet accept.

The assurances which you had given me, in the first personal conference between us, of your own entire satisfaction with the explanations given you upon all the points on which you had been instructed to ask them, would naturally have led to the expectation that the promise which you was authorized to give would, at least, not be withheld. From your letter of the 5th instant, however, it appears that no discretion has been left you to pledge even His Majesty's promise of ratification in the event of your being yourself satisfied with the explanations upon *all* the points desired; that the only promise you can give is *conditional*, and the condition a point upon which your Government, when they prescribed, could not but know it was *impossible* that the United States should comply—a condition incompatible with their independence, their neutrality, their justice, and their honor.

It was also a condition which His Catholic Majesty had not the shadow of a *right* to prescribe. The treaty had been signed by Mr. Onís with a full knowledge that no such engagement as that contemplated by it would ever be acceded to by the American Government, and after long and unwearied efforts to obtain it. The differences between the United States and Spain had no connexion with the war between Spain and South America. The object of the treaty was to settle the boundaries, and adjust and provide for the claims between your nation and ours; and Spain, at no time, could have a right to require that any stipulation concerning the contest between her and her colonies should be connected with it. As His Catholic Majesty could not justly require it during the negotiation of that treaty, still less could it afford a justification for withholding his promised ratification after it was concluded.

The proposal which, at a prior period, had been made by the Government of the United States to some of the principal Powers of Europe, for a recognition, in concert, of the independence of Buenos Ayres, was founded, as I have observed to you, upon an opinion then and still entertained that this recognition must, and would at no very

remote period, be made by Spain herself; that the joint acknowledgment by several of the principal Powers of the world at the same time might probably induce Spain the sooner to accede to that necessity, in which she must ultimately acquiesce, and would thereby hasten an event propitious to her own interests by terminating a struggle in which she is wasting her strength and resources without a possibility of success—an event ardently to be desired by every friend of humanity afflicted by the continual horrors of a war, cruel and sanguinary almost beyond example; an event not only desirable to the unhappy people who are suffering the complicated distresses and calamities of this war, but to all the nations having relations of amity and of commerce with them. This proposal, founded upon such motives, far from giving to Spain the right to claim of the United States an engagement not to recognise the South American Governments, ought to have been considered by Spain as proof at once of the moderation and discretion of the United States; as evidence of their disposition to discard all selfish or exclusive views in the adoption of a measure which they deemed wise and just in itself, but most likely to prove efficacious by a common adoption of it, in a spirit entirely pacific, in concert with other nations, rather than by a precipitate resort to it on the part of the United States alone.

The conditional promise, therefore, now offered by you, instead of the positive one which you had declared yourself authorized to give, cannot be accepted by the President; and I am constrained to observe that he can consider the procedure of your Government, in thus providing you with powers and instructions utterly inefficient for the *conclusion* of the negotiation with which you are charged, in no other light than as proceeding from a determination on its part still to protract and baffle its final successful issue. Under these circumstances, he deems it his duty to submit the correspondence which has passed between us, since your arrival, to the consideration of the Congress of the United States, to whom it will belong to decide how far the United States can yet, consistently with their duties to themselves, and the rights of their citizens, authorize the further delay requested in your note of the 5th instant.

In the conclusion of that note you have remarked, alluding to a great change which appears to have taken place since your departure from Madrid in the Government of Spain, that this circumstance alone would impose on you the obligation of giving no greater latitude to your promise previous to your receiving new instructions. If I have understood you right, your intention is to remark that this circumstance alone would restrain you, in any event, from giving, without new instructions, the unconditional promise of ratification, which, in a former note, you had declared yourself authorized, in the name of your Sovereign, to give. This seems to be equivalent to a declaration that you consider your powers themselves, in the extent to which they were intrusted to you, as suspended by the events to which you thus refer. If I am mistaken in taking this as

your meaning, will you have the goodness to inform me how far you do consider your powers affected by the present state of your information from Spain?

Please to accept the assurance of my distinguished consideration.

JOHN Q. ADAMS.

*General Vives to the Secretary of State.*

WASHINGTON, May 9, 1820.

SIR: In answer to your note of yesterday's date, I have, in the first place, to give you the explanation requested of me, of the import of my last proposal; and, in so doing, to repeat, in other words, that I am authorized solemnly to promise to this Government the ratification of the treaty by His Majesty only in case the third point of my proposals be satisfied; but as the answer given to this point has not been such as I could, agreeably to my instructions, receive as satisfactory, I can by no means commit myself by giving a greater extension to my promise than that expressed in my note.

My object in intimating to you that, although I knew nothing officially, yet I considered as authentic the information circulating of an important change in the Government of Spain—a circumstance which would, of itself, effectually prevent me from giving greater latitude to my promise—was, to apprise your Government that as, by the adoption of the constitution of 1812 in Spain, the powers of the King would be limited, it would no longer depend on His Majesty alone to fulfil my solemn promise, admitting that my instructions had empowered me to give such a promise; so that my sole motive for offering a remark upon that topic was to strengthen the grounds on which my proposal was founded, and, further, to enable your Government so to appreciate as no longer to decline assenting to it.

I shall, on this occasion, waive all reply to the arguments again advanced by you, *in extenso*, upon the question of His Majesty's obligation to ratify the treaty, and confine myself to a single remark, namely, that all the authorities cited by you lay down the peace and happiness of mankind in general, and of States and their respective people in particular, as a fundamental principle. And having, in my first note, shown the notoriously hostile disposition prevailing throughout the Union towards the interests of the Spanish monarchy, it necessarily follows that, when the objects of treaties are not obtained, the ratification of that of 22d February, 1819, would, in like manner, become illusory; and, therefore, that His Majesty's motives for suspending it were founded upon a competent view of evident facts.

I shall also leave it to the general sense of the reflecting part of mankind to decide whether the reasoning you rely on, in stating the motives of the American Government for proposing to other Powers to acknowledge the revolted provinces of Spanish America, and in exhibiting them as favorable, not only to suffering humanity, but to the interests of Spain herself, be not, in the highest



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degree, specious; for, if such maxims were to be adopted, nations could no longer count upon the integrity of their possessions, or upon the maintenance of that mutual amity and good understanding which it is equally their duty and their interest to cultivate in their relations with each other.

I have the honor to offer you anew the assurances of my distinguished consideration, and I pray God long to preserve you.

FRANCISCO D. VIVES.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, May 10, 1820.

SIR: In conformity with the orders I have this moment received from my Government, I have the honor to inform you that His Catholic Majesty hath sworn to the political constitution of the Spanish monarchy as sanctioned by the extraordinary Cortes in 1812, and to enclose a printed copy of His Majesty's manifest to the nation, for the purpose of giving the President a just view of the noble and generous sentiments which actuate the august mind of the King.

Please to accept the renewed assurances of my perfect consideration, and my wish that God may preserve you many years.

FRANCISCO D. VIVES.

(From the National Press.)

GAZETTE EXTRAORDINARY OF MADRID,  
Sunday, March 12, 1820.

*Proclamation of the King to the Nation.*

SPANIARDS: When, by your heroic efforts, you succeeded in terminating a captivity in which I was detained by the most unheard-of perfidy, every thing I saw and was informed of, on my entering into my native land, conspired to persuade me that the nation wished to see revived its ancient form of government; and this persuasion must have decided me to conform myself with the general wish of a magnanimous people, who, vanquisher of a foreign enemy, feared the still more dreadful evils of intestine divisions.

I was, however, well aware that the rapid progress of civilization in Europe; the universal diffusion of knowledge, even among the lower classes; the more frequent intercourse with the different parts of the globe; and the wonderful events of the present era, have given rise to ideas and desires unknown to our forefathers, which imperiously demand the most energetic measures in the Government. I also knew well that it was indispensable that the political institutions should agree with such principles, thereby to obtain that harmony between the people and the laws on which the stability and peace of society so much depend.

But, while I was maturely planning, with the solicitude of my paternal heart, the changes to be effected in our fundamental administration, more suitable to the national character and to the present state of the different provinces of the Spanish monarchy, and also more analogous to an enlight-

ened nation, you have let me know your wishes for the re-establishment of the constitution proclaimed at Cadiz, in the year 1812, amidst the bustle of arms, and while, to the astonishment of the world, you were fighting for the liberty of your country. I have listened to your desires, and, as a loving father, I have condescended to grant what my children thought most conducive to their happiness. I have sworn to that constitution for which you longed, and I will always be its firmest supporter. I have already taken the most effectual measures for the immediate convocation of the Cortes. In them, and united to your representatives, I will make it my glory to concur in the great work of national prosperity.

Spaniards! Your glory is my only ambition. The desire of my heart is to see you all united and happy around my throne. Trust, then, to your King, who addresses you with that sincere effusion of his soul which the circumstances in which you are, and a sense of the high duty imposed upon him by Providence, inspire him with. Your happiness will henceforth depend, in a great measure, upon yourselves. Do not suffer yourselves to be seduced by the deceitful appearances of a chimerical happiness, which often prevents the attaining of real bliss. Allow not your passions to be exalted, as they are wont to make enemies of those who ought always to live as brothers, and be as unanimous in their wishes as they are in the possession of one religion, the speaking of one language, and the conforming to the same manners and customs. Repel the perfidious insinuations so artfully disguised by your enemies. Let us conform ourselves strictly to the constitution, as I myself will be the first to do; and let us show to Europe a pattern of wisdom, order, and perfect moderation, in a crisis which, in other nations, has been accompanied by scenes of bloodshed and havoc. Let us make the Spanish name admired and respected, at the same time that we establish forever our happiness and our glory.

FERDINAND.

AT THE PALACE, MADRID, March 10, 1820.

*General Don Francisco Dionisio Vives to the Secretary of State.*

WASHINGTON, May 11, 1820.

SIR: Among the documents transmitted with the President's Message to both Houses of Congress, and published in this day's National Intelligencer, I have seen with surprise the letter of Mr. Gallatin, stating that I positively told him that "I could, in case of an arrangement, give satisfactory security to the United States, and that it would consist in consenting that they should take immediate possession of Florida without waiting for the ratification of the treaty." Although I have with all frankness proved, in my correspondence with you, that I had no such authority, and that it will not, under any view which may be taken, appear presumable that I made so doubtful, so useless, and inconsiderate a disclosure, I request, however, that you will be pleased to communicate this to the President, in order that, by

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giving publicity to this document, it may be understood that I made no such proposal, either to Mr. Gallatin or to Baron Pasquier. I renew, &c.  
**FRANCISCO D. VIVES.**

[The following report on the same subject was made to the House of Representatives, March 9, 1820.]

The committee, to whom has been referred so much of the President's Message at the commencement of the session as relates to foreign affairs, respectfully report:

That their attention was directed, immediately upon their appointment, to the state of the relations of the United States with Spain, and that their delay in making a report on them must be attributed to their wish "to afford an opportunity for such friendly communications during the present session of Congress" as the Government of Spain had authorized us to expect. They thought it better that Congress should postpone its determination until events might enable it to make that determination definitive, than that it should pass a contingent act for authorizing measures which it was not proposed immediately to execute; that it should found its determination upon relations ascertained to exist, than upon a calculation of events which might be expected to occur during its sitting.

But more than a year has passed since the signature of the treaty by which it was proposed to terminate the long differences between the United States and Spain; more than six months since the appointment of a new Minister from Spain, who was "forthwith" to make known to the United States the intentions of his Government; and we have advanced so far in the session as to make it necessary to propose, without further delay, any measure on which it is expected that Congress shall act before its adjournment.

The committee will not attempt to add any thing to the exposition of the rights of the United States and the obligations of Spain which is contained in the correspondence between the two Governments. We can hardly expect from continued negotiation the redress which has been claimed for twenty years, and promised for eighteen; which has been a second time promised, and a second time withheld. In such a negotiation, the signature of a treaty seems to be a mere incident, and not its term.

For the spoliation which have been committed upon the property of our citizens, for the invasion of our soil, for the weakness or partiality which has made a Spanish territory the place of rendezvous and encampment of an enemy, and which has, still more lately, permitted the Indian inhabitants of that territory (whom Spain was bound by treaty to restrain) to engage in savage hostilities against us—for all these acts of war, a people less attached to peace would seek redress only by war. To capture and confiscate the ships and property of the wrong-doer would be admitted to be a policy of mildness and forbearance. But, by such reprisals, the Government that does the wrong suffers less than the unoffending subject. It seems

a more just reprisal to occupy the province which has been made an instrument of injury, which has been designated by Spain herself as the fund for our indemnity, and whose occupation by the United States will stop the accumulation of those claims for compensation and redress which the misgovernment of that neglected colony continually produces. The committee submit to the House a bill to authorize the President of the United States to take possession of East and West Florida, and establish a temporary Government therein.

There appears too much reason to believe, from the mistake of the Spanish negotiator as to the dates of the Spanish grants which it was intended to annul if the projected treaty had been ratified, that the Crown lands in Florida may be insufficient to provide the expected indemnity for our losses. But these may be applied, as far as they will go, to the compensation of our citizens; and for the excess of our claim, Spain, by whose act the domain of Florida has been rendered inadequate, must expect us to look westward. Perhaps, when our attention is thus forced to a direction more interesting to Spain, her Government may at last admit that it is as much her interest as ours that the just claims of the United States should be provided for by friendly convention, and we may hope that the next treaty between the two nations may be executed as well as signed.

*Extract of a letter from Mr. Forsyth to Mr. Adams, (No. 18,) dated*

MAY 20, 1820.

By the Gibraltar mail of the — instant, I received the duplicate of your No. 11. You will herewith receive copies of Mr. Jabat's letter, giving notice of the birth and title of the son of the Infante Don Francisco de Paula, and my answer.

On the 12th I paid the Minister a visit at the Office of State, and, as I expected, he inquired if I had any recent advices from America. I stated to him very frankly that I had received nothing but the permission from our Government to return to the United States, which, from a belief that it would be most agreeable to the President, I should not use until after the celebration of the Cortes. He professed to be much gratified by this determination, which he thought was calculated to promote that good understanding between our respective Governments, to secure which was the object of our mutual wishes. From this, the conversation naturally turned to the unofficial notices from the United States, and particularly to the report of the committee on the affairs of Florida. He did not appear to apprehend that we should do more than occupy the territory; but he expressed a great deal of dread lest there should be blood shed in effecting that object, and carrying into effect the act proposed by the committee.

As I had been told (as stated in my No. 17) that some uneasiness was felt on the first point, I thought it prudent to show him that, with the dispositions now entertained in Spain, there was no reason that we should be disposed to go beyond

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the limits of the treaty of February, 1819. He would recollect that the only motives we could have were to procure satisfaction for the injury sustained by the delay of Spain to ratify the treaty, and compensation for any deficiency in the fund for the payment of our citizens occasioned by the mistake of Mr. Onís about the date of the large grants. On the first, I was sure a reasonable explanation would be deemed sufficient; on the second, there could be no difficulty, as the abandonment of all pretension in favor of the grantees was more necessary to the character of Spain than it was important to the interests of the United States.

I did not suppose there was much ground for the fears he seemed to entertain of a formidable resistance to the occupation of Florida; nevertheless, as he was seriously apprehensive, I suggested that the President would no doubt employ a force so powerful that resistance would be hopeless, and I presumed the good sense of the Spanish authorities would prevent them from making a useless sacrifice of the lives of the soldiers committed to their care. It was obvious, from the conversation of Mr. Jabat, that the seizure of the territory was anticipated, and that the only fear really entertained was, that the mode of occupation would impose an obligation on the present rulers to make a noise about it. The interview terminated by a renewal of the assurances formerly given, of the desire of the Government to establish a permanent friendship with us, and with the hope, reciprocally expressed, that nothing might occur to render it difficult. On the 15th, I received a note from Mr. Jabat, (copy enclosed,) inviting me to see him the next day at eleven. I saw him at the hour appointed, and his first question was, "Have you any thing from Washington?" To my reply in the negative, he said, "Then I shall have the pleasure of giving you very recent advices from that place." He showed me a despatch from Mr. Serna, of the 28th of March, enclosing copies of the President's Message to the House of Representatives of the 27th, and of the documents accompanying it. Mr. Jabat was highly gratified; said nothing could have occurred more favorable to the future amity of the two nations; that he had shown these papers to the King, who was pleased both with the measure proposed, and the reasons offered for it by the President. Mr. Jabat did not omit to suggest, what I knew perfectly well, that the accomplishment of the expectations of the President would have to be imputed to the recent revolution in Spain. He explained to me what I did not understand in our previous conversation, the foundation of his fears of a formidable resistance in Florida. It seems the ports of the territory had been reinforced in Cuba, and the Governor General of that island had given official notice of it to the Secretary of State. Joining with the Spanish secretary in his expressions of satisfaction, I suggested the hope that General Vives would not arrive until after the adjournment of Congress, as it was impossible to foresee what might be the effect produced by his arrival without competent power to meet the just expectations

of the American Government. I did not fear any ill consequences if news of the revolution in Spain could reach Washington before a determination was taken. I was confident that, irritating as this authority might be, the President would be disposed to give to the King of the Spains proofs of the moderation and good will which had distinguished the conduct of the United States to the King of Spain. Taking the time at which Congress has usually adjourned as the criterion, I suppose that General Vives would scarcely see Washington before the adjournment of the legislative body. I have since learned from our newspapers that Congress would have continued in session until the beginning of this month, and that General Vives reached New York on the 5th of April. I now hope that Mr. Hackley, who carried my despatches of the 9th March, and who left the Straits of Gibraltar about the 27th March, will be in the United States within a short time after the arrival of the Spanish Minister. In the present state of things, nothing could be more auspicious than the proposed delay of acting against Florida, although the President will have perceived from your first communications with General Vives, that, but for recent events, we should have given another proof of useless forbearance, if the utility of forbearance was to be estimated by the good effect it would have produced on the Government of Spain. Mr. Jabat proposed to me to see the King at the circle that day—a ceremony I have not thought it necessary to observe since the postponement of the ratification of the treaty. Always, however, replying politely to the notes sent on particular occasions, and once calling at the palace when the King was ill, I had resolved to renew these visits of ceremony immediately after the liberation of the Americans, prisoners in Spain, and therefore the more readily acceded to this proposal. I attended the circle with the diplomatic body, and was received, as I had been taught to expect, perfectly well, and as if there had been no interruption in my visits to it.

*Extract of a letter from the same to the same, (No. 19.)*

JULY 13, 1820.

A few days after the arrival of the Minister of State, (Perez de Castro,) I called at his office to see him on our affairs. I stated that the time for the meeting of the Cortes was near at hand, and I was desirous to know what was proposed by this Government to be done. He declared himself to be unable to converse on the subject of the negotiation with the United States. He was not master of the correspondence, and that his numerous and pressing engagements had rendered it impossible for him as yet to become so. He was examining, and hoped to speak advisedly on it in a short time. I gave him a translation of the remonstrance of the 18th of October, to apprise him of the state of the dispute in relation to the eighth article of the treaty, not officially, but as a document for his own examination, telling him that I did not conceive it necessary, from the disposition manifested since the revolution, to make

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an official representation on this subject. He received it very willingly. He had seen, as he stated, in the foreign newspapers, that it was asserted by the American Government that the treaty was obligatory upon Spain, although not ratified: this position he could not consider as founded either in the opinion of the best authorities, or in the usages of nation. I explained to him that we considered the treaty as obligatory in justice and in honor as if ratified by Spain. As no satisfactory reason had been, or, as we believed, could be given for the refusal to ratify, there could be no question as to our right to resort to any measure we deemed proper to obtain satisfaction. The least we could do was to execute the treaty; and when we gave to Spain all the advantages she could derive from it, we should take from her all just cause even to complain of the course pursued. He spoke a good deal at large of the charge of bad faith which was urged against Spain, and said she had no motive of avarice or ambition to gratify in her negotiation with us; and if her policy required her to procrastinate, this was no reason to charge her with ill faith. To all this I answered that the systematic procrastination, although at all times vexatious, had never been urged as a proof of bad faith; it was the non-compliance with engagements actually made by persons duly authorized and empowered by this Government; that, if the avarice or ambition of the Government was not known in the negotiation, that of individuals who had possessed influence in Spain was but too visible. I saw him again after ten days. He had run over the whole correspondence; talked of the treaty of 1802; the proposals of Mr. Pinckney; the guaranty of the Spanish American dominions, as an inducement to cede Florida; in short, of all that had passed prior to the convention of 1819; of the losses Spain had sustained, and of our gains. I listened patiently to all he had to advance; when he had finished, I replied that we had gained nothing from Spain; if her arrangement with another Power was matter of regret, it was not our fault; what we had obtained was purchased and paid for; that I had no instructions from the President since August, 1819, and, therefore, could not speak certainly of what might be the wish of my Government; but that it appeared to me it would be better for Spain, at the present juncture, not to look beyond the treaty of 1819, but to consider what obligations were imposed upon her by it, and by her as yet unexplained refusal to ratify it. He did not seem unwilling to adopt this idea, and entered into a short examination of the conduct of the United States in the dispute between the colonies and Spain; the expeditions fitted out by Miranda, Mina, &c.; of the patriot privateers, &c. I replied that we had done all Spain had a right to expect from us; that, determining to be neutral between the contending parties, we had taken every means necessary to preserve that neutrality. If the laws of the United States had been sometimes violated with impunity, it was what had occurred, and would occur, in all nations, by the escape of persons who had committed offences; that all recla-

mations founded upon them by causes of complaint were removed by the convention, &c. Previous to this conversation, I had seen in the English newspapers the President's Message to Congress of the 9th April, headed by a sort of abstract of your correspondence with General Vives, in which it was stated that this Government had not asked explanations of me relative to the treaty because of my intemperate conduct. I remarked to the Minister that this was not the fact. Explanations were not asked of me, because, anticipating what would be required, I had given the Ministry to understand that, upon the subject of the dispute with the colonies, I had no explanations to give, and that it was informally made known to me, before the 22d of August, that I could have the convention if I was authorized to promise that the Government of the United States would not recognise the independence of any of the Patriot Governments. He said he had read the note I had given him, and those previously written, and that there were expressions stronger than he had ever met with in diplomatic correspondence, but he supposed they were written when I was a little warm. I questioned whether he had ever met with a similar case in the history of diplomacy, and that I was not a little warm, but indignant at seeing the character of a great nation, and its peace, and that of my own country, put in jeopardy for the sake and by the intrigues of selfish individuals. As the Minister had not seen the message, I promised to procure and send it to him. He was not prepared to say what course would be recommended to the Cortes, upon whom every thing depended. I pressed upon him the necessity of doing what was done promptly. He was satisfied of the importance of doing so, and promised to let me know the determination of the Ministry as soon as it was made. At parting, he referred to the assistance received from Spain during our revolutionary war, which he said we ought not to forget. The reply was, we never forget when you permit us to remember it. I met the Secretary of State at dinner on the same day at the English ambassador's. He told me he had received that morning, from General Vives, despatches, the President's Message, and the correspondence sent with it to Congress. He had not yet had time to read them attentively, but appeared to be pleased with what he had seen in glancing over the papers. On the 4th of July Mr. De Castro dined at my house, and brought with him a copy of the message and correspondence, which he left with me, to be returned, as he had but the one copy. On the 6th the Cortes was installed, Espiga chosen president, a priest, but one of the most liberal; and Quiroga vice president. I was in the tribune prepared for the diplomatic corps during the votation, and went from it to the office of Mr. De Castro, to restore to him the documents he had loaned me. He was just going to the King, and had but a few moments to converse with me. In these few, he said he thought the President did not look beyond the ratification of the convention, the grants being set aside, and there could be no difficulty about them. It was his opinion that this should be done.

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I do not say, he continued, it will be done; that depends on another body; but it is my opinion that it will be. What say you, he asked—will this be satisfactory? I reminded him that I had no instructions—hoped to receive them. I could give him only an opinion in turn. Judging from the correspondence and message, I saw no sufficient reason to change the opinion already given to Mr. Jabat, that the ratification of the treaty, accompanied by satisfaction for the injury caused by the delay, would be accepted by the United States. I was present at the session of the Cortes on the 9th. The oath required by the constitution was taken by the King in due form, and an address made to him by the president. The King said a few words in reply, and then read his speech. Copies furnished by the Department of State are enclosed, as also copies of the answer of the Cortes, prepared by a select committee appointed for that purpose. The answer to that part of the King's speech which refers to the dispute with the United States is marked by the introduction of a very emphatic word. The King says: "Although a complication of various circumstances has not permitted as yet the adjustment of those differences, (with the United States and Portugal,) I hope that the justice and moderation of the principles which direct our diplomatic operations will produce a result decorous to the nation, and agreeable to the pacific system, &c. &c. of Europe." The answer is: "The Cortes only regret that there exist differences with the United States and His Most Faithful Majesty; but the principles of moderation that will direct now our diplomatic negotiations give hope to the Cortes that they will conclude in terms which, being a termination decorous to the nation, may not interrupt the pacific system, &c. &c. of Europe."

On the 11th the Minister of State read his report to the Cortes, and gave them an account of the state of the dispute with the United States. I was not present. A very imperfect account of it is published in the newspapers. I hope to procure it to send with this despatch, as also a very interesting report of the Minister of the Government of the Peninsula, Augustin Arguelles.

*Extract of a letter from the same to the same, (marked private) dated*

JULY 30, 1820.

On the 22d I wrote to Mr. De Castro, to say to him that the President would accept the treaty of 1819, subject to the advice and consent of the Senate, if immediately ratified by Spain. Had the Secretary of State been in Madrid, after what has occurred in our conversation, I should only have stated to him, verbally, what I had been instructed to say; but, as the time of his stay at Sacedon was uncertain, I thought it better to write than to ask an interview at that place, as the latter might be imputed to an anxiety on the subject which I was instructed not to discover. His answer is of the 25th, and is perfectly satisfactory. He has the commands of the King "to bring the business of the negotiation immediately

before the Cortes, and is using all exertion to do so." Mr. Jabat called on me on the 27th, to say that, in consequence of this correspondence, the King would shorten his stay at Sacedon, would come to Madrid on the 10th of August, and that the negotiation would be, by the 12th, before the Cortes. There is, therefore, every reason to hope that all will be finished by the 20th. As so little time is to elapse before I shall have it in my power to say what has been done, I write hastily, intending, immediately after the determination of the Cortes, to forward copies of the correspondence, and a more formal statement of what has occurred and may occur.

*Extract of a letter from the same to the same, (marked private,) dated*

AUGUST 27, 1820.

My hopes of seeing the business of the Florida treaty definitively arranged by the 20th of this month have been disappointed. The King did not come from Sacedon until the 12th. I was taught to expect an immediate movement in our affairs, but it was not made. Early last week I had an accidental interview with one of the Ministers, (Mr. Jabat,) who told me the necessary papers were prepared, and would be before the Cortes during the week. Yesterday morning, as nothing had been done, I called at the office of Mr. De Castro, to know what was the motive for delaying to present the subject to the Cortes. Mr. De Castro imputed it entirely to the press of important matters at home. He had just sent to ask the Cortes to designate the day and hour when he could lay before them, in the name of the King, the business of the treaty for the cession of Florida. Before I left the office, the Secretary of State was informed that the Cortes would receive him immediately. At one o'clock yesterday, the Cortes had a secret session, and no doubt the proper communication was made. I still refrain, therefore, from sending you copies of the previous correspondence with this Government, believing that within a few days I shall be able to give you the result of the deliberations of the National Cortes.

With the expectation of giving you, in a very short time, the final resolution of this Government on the affairs of the treaty, I am, dear sir, respectfully, your most obedient servant.

*Extract of a letter from Mr. Forsyth to Mr. Adams, (marked private,) dated*

SEPTEMBER 21, 1820.

Apprehensive that the decision of the Cortes on the business of Florida will not be made in time to enable me to give you notice of it before the meeting of Congress, I have thought it prudent to forward to you my despatch of this day's date. You will see the grounds I had for believing that a speedy decision would be made, and that the decision would be what was desired by the President. Although the delay is apparently without motive, I have no reason to doubt that the decision, when made, will be what we have a right

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to expect. I saw Martinez de la Rosa, appointed to the political commission in place of Count Torreno, who was elected president of the Cortes three days since; he told me the Secretary of State had pressed them to make an early determination, and that the report of the commission would be soon prepared; he acknowledged, at the same time, that he did not know the state of the business. Mr. De Castro on Tuesday expressed the greatest anxiety to have the affair arranged before the meeting of Congress, and had directed General Vives to give you every assurance of the wish of the Government to satisfy us. It is true that the change in the head of the political commission accounts for a portion of this delay, and that the Cortes have been occupied by the consideration of questions apparently more pressing, as they related to the affairs of the peninsula, and were connected with the public tranquillity; still, however, there has been ample time for the adjustment of this business.

Mr. Onis has published a memoir on the negotiation between the United States and Spain, with a statistical notice of our country—a work that does little credit to his penetration or candor. He accuses us of ambition and avarice, and yet endeavors to show that the treaty of cession of Florida ought to be considered as a treaty of exchange of Florida for Texas, a country more extensive, fertile, and valuable. I send you an extract from that part of the work which relates to the correspondence on the subject of the grants after the treaty was signed. In another part of the work he imputes the refusal to ratify prior to August, 1819, to a belief that England would make use of the cession of Florida to us as a pretext to seize the island of Cuba, and to a belief that we would occupy the territory by force, and by this means secure the donations to Alagon, Punon Rostro, and Vargas.

*Extract of a letter from the same to the same, (No. 2), dated*

SEPTEMBER 21, 1820.

In a postscript, dated July 20, to my despatch of No. 19, I had the honor to acknowledge your No. 12, of the 25th of May. On the 21st I wrote to Mr. De Castro, who was at Sacedon with the King, a note, (copy marked No. 1.) His answer, (copy marked No. 2,) dated the 25th, was received on the 26th July. On the 27th I had a visit from Mr. Jabat, who called by the desire of Mr. De Castro. Mr. Jabat informed me that the King would shorten his stay at Sacedon; would be in Madrid on the 10th of August; that all the documents relating to the treaty of cession, and the late correspondence, would be presented by the 12th to the Cortes, and he hoped all would be despatched before the 20th. For the reasons explained in my private letter of the 27th August, the necessary communication was not made to the Cortes until the 26th. The subject was referred to the political commission, who have not yet given to the Cortes the result of their examination of it. Mr. De Castro has uniformly assured

me of his anxiety to have an immediate decision. He solicited a speedy decision when he presented the papers to the Cortes. Although I look daily for further information of the movements of that body, I am without the means to know certainly when they will be made.

No. 1.

*Mr. Forsyth to Don Evaristo Perez de Castro, Secretary of the Despatch of State, &c.*

MADRID, July 21, 1820.

SIR: In the several conversations I have had with your Excellency on the relations of our respective Governments, arising from the convention of 1819, I have expressed my conviction that, notwithstanding what has occurred, a prompt ratification of that instrument by Spain, accompanied by satisfaction for the injuries sustained by the United States in consequence of its being heretofore withheld, would be accepted by my Government. I have now the instructions of the President, and am authorized to assure you that the immediate ratification by Spain of the convention of February, 1819, will be accepted by the President, subject to the advice and consent of the Senate of the United States.

Relying implicitly upon the assurances received of the desire of this Government to terminate at once, and in the most amicable manner, the dispute with the United States, I with pleasure avoid the unpleasant task of remarking upon the disagreeable occurrences connected with this subject, since my residence near the person of His Catholic Majesty, or upon the surprise and disappointment felt in the United States on the discovery of the object of the mission of General Vives, and the limited power granted to him. Your Excellency is already apprized that the Government of my country has been induced to delay acting decisively against Spain by the extraordinary change in the constitution of this monarchy—a revolution without example in the history of the world—the admiration of the present, as it will be of every future age. The expectation that all differences between Spain and the United States would be speedily and satisfactorily adjusted as soon as this Government was completely organized on the principles of the change which had taken place, was the cause of this delay. The moment has arrived which will see this expectation realized or disappointed. His Catholic Majesty now sees in his capital the representatives of the people. The Cortes are in the full and tranquil exercise of the high and important duties confided to them by the constitution of the Spanish monarchy. I refrain from indulging the free expression of my congratulation to the King and to the nation at the interesting events of which I have been the witness. Were I to use the only language I am accustomed to use, that which truly expresses my sentiments, my motives might be misunderstood, or I should be accused of substituting the effusions of enthusiasm for the offerings of diplomatic respect. I content myself, therefore, with the simple expression of my satisfaction at the situation in

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which this Government finds itself, as it affords the opportunity of bringing to its close the long-protracted negotiation with my own country. The attention of the Cortes has been already called to this subject, and they have been informed by His Majesty that their intervention will be, under the present system, necessary to its final settlement. This intervention cannot be too prompt, considering either the effect to be produced on the future relations between the two countries, or the time which has elapsed, not only since the signature of the convention, but since the expiration of the period at which the ratifications of it were, by express stipulation, to have been exchanged. The only questions presented for decision are of a character that demand but little consideration. The principles which must regulate this decision are so well known as scarcely to admit a difference of opinion respecting them.

What are the obligations imposed upon Spain by the signature of the treaty, and the subsequent failure to ratify it? The obligation to ratify is the inevitable result of the formation of a treaty, and can only be avoided by showing (what, in this case, has never been asserted) that the negotiator who signed it stipulated, in the name of his Government, what he was not authorized to stipulate. Upon the principles universally recognised by the law of nations, it is beyond dispute that the faith of the nation, once pledged by its monarch, having competent power, no change in the internal government can release it. The promise of the King once given to a foreign Government, no subsequent engagement with his own subjects, or with other nations, can impair its strength. If these principles are true, the obligations consequent upon the failure to ratify are unquestionable. The first of these is the prompt ratification of the instrument; the second, an explanation of the causes justifying the postponement, to this time, of the ratification, or an atonement for the injuries resulting from it. In urging an immediate decision, I am specially instructed to add, that it is not the intention of the President to avail himself of the incidents of this negotiation, and of the principles of the laws of nations applicable to them, to fasten a hard and unequal bargain upon Spain. He has always considered, and still views, the treaty as highly advantageous to Spain, and would not now desire its ratification if, in the just and reasonable estimation of Spain herself, it could be viewed in any other light.

The causes which have heretofore delayed this ratification here present themselves for examination; but, for the reason already indicated, and from a desire to avoid all unpleasant and useless recollections, I shall not dwell upon them; it is enough that, however satisfactory they may have been made to appear to His Catholic Majesty, they do not justify, in the eyes of the United States, the course that has been pursued. But even these causes, so far as the judgment of His Majesty's Minister in the United States can be relied upon, no longer present obstacles to the immediate and final decision of this affair. But, while the Government of the United States is far

from considering the delay which has taken place as justifiable, I am not instructed by the President to insist upon, or even to ask, satisfaction for the injuries occasioned by it. That this satisfaction has not been claimed by the United States, is to be imputed not to any doubt of their right to demand, or of the obligation of Spain to afford it, but has sprung from the desire to manifest more clearly the principles of forbearance and moderation that have governed their march in this negotiation.

That it is not asked now arises from sentiments towards the Spanish nation, no one more truly than your Excellency can understand and appreciate.

What follows will, I trust, be found to be altogether unnecessary; nevertheless, it is incumbent upon me to say to your Excellency that, if the determination of Spain to ratify the convention of February, 1819, is not immediate, the claim to further satisfaction will be no longer waived; that, upon any future adjustment, the United States will insist upon an indemnity; that an additional provision will be indispensable for the existing claims of their citizens upon the Spanish Government; and that the right of the United States to the western boundary of the Rio del Norte will be reasserted, and never again relinquished.

I renew to your Excellency, whom may God preserve, the assurances of my perfect respect.

JOHN FORSYTH.

DON EVARISTO PEREZ DE CASTRO, &c.

No. 2.

*Don Evaristo Perez de Castro to Mr. Forsyth.*

SACEDON, July 25, 1820.

SIR: I have lost no time in laying before the King, my august master, the contents of your Excellency's note of the 21st instant. His Majesty has received with the greatest interest and satisfaction the information contained in the communication which you were pleased to make to me concerning the instructions which you had received from your Government, and which are conformable to what has been communicated by the Minister of Spain at Washington. You may be firmly persuaded that the desires of this cabinet to see a prompt termination of the business left pending by the non-ratification of the treaty of February, 1819, on the part of the King, are as lively and sincere as its will is decided; and it is full of hope that the decision of this subject will be satisfactory for both States, and apt to found upon unalterable bases the friendship which His Majesty is desirous of preserving with the United States.

It being indispensable to hear the Cortes of the kingdom, before the King, my master, can take the final step which the President desires, and with which his Majesty flatters himself to see the present dispute happily terminated, he has been pleased to command me to put this business in a state of being presented to the National Congress so speedily as that it may experience no more de-

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lay than may be absolutely indispensable to accomplish it. I have received this order with singular pleasure, as being so agreeable to my personal sentiments, and overcoming, by dint of activity, every impediment which might oppose the desired ready despatch of this important subject, through my recent entrance into this ministry, and the imperious necessity of my informing myself of its former and present state. I have the honor to assure you that I hasten, and, if I may be allowed the expression, count the moments, to present myself before the Cortes with this business; it being my solicitude to give every activity to its resolution, and not to delay an instant the desired conclusion of the whole. In the meantime, His Majesty has seen with satisfaction the sentiments which animate the President of the United States, (an estimable proof that he has confidence in those of the King, my august master, and in the punctuality and good faith of the nation, happily regenerated by the new institutions,) which cannot fail to designate in the acts of the Government that firm and loyal march of which the noble Spanish character and the wisdom of their representatives are the guarantees.

I avail myself of this occasion to reiterate to you the demonstrations of my great consideration; and I pray God to preserve you many years.

Your most obedient servant,

E. PEREZ DE CASTRO.

*Mr. Forsyth to Mr. Adams, (marked private.)*

OCTOBER 5, 1820.

DEAR SIR: Three days since, the political commission made a report to the Cortes, and this day, in secret session, that body advised the King to cede the Floridas to the United States. They have also declared null and void the cessions of land to Alagon, &c., although the treaty of February, 1819, should not be ratified. I presume I shall receive from the Minister of State early information of the King's ratification of the treaty.

I am, dear sir, sincerely and respectfully, your obedient servant,

JOHN FORSYTH.

JOHN QUINCY ADAMS, *Secretary of State.*

*Mr. Forsyth to Mr. Adams, (No. 21,) dated*

MADRID, October 11, 1820.

SIR: On the 5th I had the honor to inform you that the Cortes had authorized the King to cede the Floridas to the United States, according to the convention of February 22, 1819. On the 6th I received from Mr. De Castro an official notice of the determination of the Cortes, and a request to be informed of the wishes of the American Government in regard to the eighth article, as I supposed with a view to have the ratification of the King in such terms as to prevent the necessity of any thing but the mere delivery of the treaty at Washington, where the ratifications are to be exchanged. A copy of his note is enclosed, marked No. 1. I replied on the 7th; a copy of my answer is marked No 2. This answer I carried with

me to the palace, it being Court day. In the Secretary of State's office I received a message from Mr. De Castro, who was confined to his bed at home, requesting me to visit him. I went immediately, and carried with me my answer to his note. As he reads English with difficulty, he opened, but did not read it. His object appeared to be to ascertain if I was authorized to make any stipulations about the eighth article of the treaty, or if there was a probability of obtaining any stipulations in Washington favorable to Spanish claimants for injuries suffered from the United States. He said the Cortes had given the King authority to execute the treaty, and to set aside the grants of Alagon and Punon Rostro; that of Vargas was out of the question, being subsequent to the 24th of January, 1818. He spoke of the cession of Vargas as a fund for the payment of American claims on Spain; said the treaty was clearly in favor of Alagon and Punon Rostro. The 24th of January was not assumed as an arbitrary date, but fixed upon on principle by Mr. Onis, who, in his letter to Mr. Adams of the 10th of March, stated, after acknowledging he believed them to be posterior to the 24th January, that he would have insisted on their being admitted as valid had he known them to be anterior. Mr. De Castro had no desire to procure any thing for such people as Alagon and Punon Rostro, but thought it equitable that the United States should set apart a portion of this fund, increased by Spain's abandoning the literal import of the treaty, for the benefit of Spanish subjects. To all this I answered what was contained in my letter—I had no authority to make any stipulations. So far as regarded the Government of the United States, the question was considered as settled. I begged him not to think of asking any thing at Washington; it could not be granted; might do injury; could not produce any good result. I reminded him that the offer made in October, 1819, to the Duke of San Fernando and Quiroga, the admission of the American declaration against the grant, was a condition upon which alone the ratification of the treaty by Spain could be admitted; and also of the declaration of General Vives, that, upon the subject of the grants, he was satisfied with the explanations given to and received from Mr. Adams, at Washington; and that these donations were never insurmountable obstacles to the ratification of the treaty on the part of Spain. He replied that this admission was on the supposition that the other explanations would be satisfactory. Satisfaction not having been received on the last and most important, the others might again be brought into view. He talked of the guarantee offered by Mr. Pinckney; of there being no provision in the treaty for Spanish claimants, as there was in that of 1802; and how desirable it would be if something could be procured for them on the adjustment of this difficulty in the convention—an adjustment in which Spain gave up what was clearly secured to some of her subjects. I remarked to him that the offer made by the instructions of the President in July last was made on the admission of General Vives that there would be no demur respecting the grants.



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If these were brought again into question, my Government was not bound by the offer then made. He said it appeared somewhat unequitable and hard to insist upon the alteration or modification of the treaty without any equivalent. To this I answered, that all he had urged might have been plausible if urged before August 23, 1819; but, after the delays which had occurred, and the incidents of the negotiation, we thought we exercised a degree of unexampled moderation in agreeing to take the ratification on the terms originally agreed upon and understood between the two negotiators. We had some conversation on the mode of ratification by the King, to obviate all difficulty at Washington. I stated to him that this, of course, was a matter in which we would do whatever was agreeable to the Spanish Government. The American declaration of the force of the eighth article might be received by Spain; a declaration might be made by the King, declaring the sense in which His Majesty understood it; or a joint declaration might be made. He proposed seeing me again on the following day at twelve, in company with a confidential person, at the office, if he was able to go out, or in his room, if he was not; to which I consented. At parting, I pointed out to him, in the published documents relating to the treaty, which I carried for the purpose, the declaration I was directed to present by my first instructions; the instructions relating to it; the subsequent instructions modified, which came to me by the Hornet; and my offer to the Duke of San Fernando and Quiroga, made in conformity with them. He said he would examine the papers, sketch something to show me in our next interview, would despatch every thing with the greatest possible expedition, and send off a messenger to Washington.

On the 8th I saw him again at his house, at twelve; he had with him the elder Heredia; the conversation was a repetition of that of yesterday. The only new idea expressed was, that it was important to the new Government to gain credit by procuring some advantage in arranging the business of the treaty, and a suggestion that Mr. Onís would not have made the treaty in any terms but those in which the eighth article is expressed. To the first I replied that the new Government would deserve and receive all praise for saving the country from the consequences of the impolitic steps of the old, and preserve the honor of the nation by abandoning pretensions which injured its character; to the last, that this suggestion was altogether at variance with the declaration of Mr. Pizarro, Mr. Onís's expressed willingness to give up the donations, and with the remark made to me by Mr. Casa Yrujo, "that he regretted that the grants had not been executed by name." Heredia urged, in the conversation, that the United States had, in the treaty, admitted it to be necessary to the King's honor that the grants prior to the 24th of January, 1818, should be preserved. This conclusion I positively denied. In allowing Mr. Onís to shape the eighth article, we did not become parties to the correctness or propriety of his opinions; on the contrary, in our opinion, the

honor of the King was concerned to make void all donations made subsequent to the date of his full power to his negotiator to cede the Floridas. The conversation concluded by a formal request from Mr. De Castro to know what my impressions were on this point, and whether they could calculate on my good offices with my Government to procure some advantage to Spain, in consideration of its desire to gratify us in this business, and of the similarity of the institutions of the two Governments. I gave him my thoughts without reserve: "that the ground which must be taken was altogether untenable; that it would injure, could not benefit, the Spanish Government; that the United States would receive any intimations on this point with surprise and regret. As for myself, with the strongest desire to do every thing to gratify this Government, I could not say any thing to my own in favor of pretensions I believed to be altogether unreasonable." Mr. De Castro said that, in presenting the subject, it would be done in such a way as to prevent any bad effect: turning to Heredia, he remarked that it must be attempted at Washington. He concluded by saying that he should pass to me a note, embodying what had been urged in our conversation, which he hoped I would answer in the shortest convenient time, as he was anxious to send off a messenger to the United States. This I promised, stating to him, at the same time, the necessity of despatching his messenger at the earliest hour possible, as Congress would be in session before he could possibly arrive.

On recollection, I find I have omitted a remark made by both Heredia and de Castro, that, according to my first instructions, as contained in the printed documents, I was authorized to exchange the ratifications without insisting upon the declaration of the import of the eighth article being received; that this exchange would have secured to the claimants the large grants, which they might have recovered in the courts of the United States. To this I answered, that such were my instructions, but they were founded upon the belief that the notice given to the Spanish Government, through Mr. Onís, rendered the declaration unimportant; that, certainly, if the treaty had been ratified by Spain, the question of the grants would have become a judicial in place of a political one. But supposing, what I could not admit, that the tribunals of the United States could have decided in favor of the claimants: this decision would have been the foundation of a demand on Spain for an equivalent or satisfaction. This conversation endured two hours. In this, as well as in that of the 7th, I am unable to give any thing but the substance, without regarding the order of what was said. My impressions are, that, after making all exertions to obtain some advantage, and failing, they will proceed on the business as they ought to have done without having made any exertion. What is most unpleasant is, to perceive that the opinions of Mr. Onís, as expressed in his book, have weight with this Government, and that what is done is rather a sacrifice to policy than founded on a conviction of the justice and equity

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of our demands, or on a proper sense of our moderation and forbearance.

Late at night on the 9th I received Mr. De Castro's letter of that day's date, the copy of which is marked No. 3, to which I replied on the day succeeding; the copy of the answer is marked No. 4. This reference to the affair of the grants is disagreeable, and will be altogether unexpected. After what has occurred, I cannot suppose the Spanish ministry can hope to succeed in procuring any thing more at our hands; perhaps the sole object is to enhance the value of the ratification on their part. I am endeavoring to procure accurate information of all that occurred in the Cortes. My private letter of the 5th is almost a literal translation of a note from one of the deputies; and I have been since informed that the Cortes would not hear a petition from Púon Rostro in relation to his claim, considering the whole affair at an end by their previous decision on the treaty.

Shortly after the publication of Mr. Onís's book, I conceived that some of its statements were so injurious to us as to require examination, and proposed to publish a review of it, to be distributed among the members of the Cortes. The affair of the treaty came so soon under the consideration of that body after I had procured a copy of the book, that it was impossible to do more than to make a few hasty remarks upon it, and to have distributed five or six copies of a translation of them among the principal members. A copy of this translation is sent to you, marked No. 5. No. 6 is the copy of an original paper received from —, an extract from which, in cipher, was forwarded to you some time ago.

The Cortes have resolved, according to the constitutional provision, to continue their session until November.

## AT NIGHT.

At 5, this afternoon, I received Mr. De Castro's letter of this day's date, which I answered immediately. The copies of the letter and answer are marked Nos. 7 and 8.

This last letter confirms the conjecture I have made that the object is to enhance the value of what will be called the concession of Spain to the American construction of the eighth article of the treaty. I regret extremely that any thing has been said by the Ministers of this Government on this topic, as it will have the effect of weakening, in some degree, the confidence, not so much in the uprightness of their intentions as in the frankness of their mode of proceeding. No doubt something will be said by General Vives on this point, or, at least, he will formally communicate the letter of Mr. De Castro of the 9th. I shall send triplicates of this communication—one by Bordeaux, one by Gibraltar, and one by the Spanish courier who carries the ratified treaty to the Spanish Minister at Washington.

As soon as he is fairly out of Madrid, I shall think of using the permission of the President to return to the United States; before I leave this, however, I shall have occasion to write to you again. I am, sir, very respectfully,

JOHN FORSYTH.

## No. 1.

*Mr. De Castro, Minister of Foreign Despatch, to Mr. Forsyth, Minister Plenipotentiary of the United States of America.*

MADRID, October 6, 1820.

SIR: I have the honor to acquaint your Excellency that the Cortes of the nation, in secret session, have authorized His Majesty's Government to ratify the cession of the territory situated east of the Mississippi, which is known by the name of East and West Florida, to the United States, and that, consequently, there is no inconvenience in proceeding, on the part of the King, to the ratification of the treaty concluded at Washington on the 22d day of February, 1819.

His Majesty would have immediately proceeded to command the ratification of the treaty to be extended, had it not been for the interference of the circumstance that your Excellency's Government, after confirming and ratifying, on its part, the said instrument, as the Plenipotentiaries duly authorized by the high contracting parties had extended it, manifested its desire to have some explanations or modifications in the text of the eighth article, which relates to the property of certain unoccupied and royal lands in both Floridas. This incident, or proposal of modification, made by the Government of the United States, which has contributed, in a great part, to the delay and difficulties which have occurred, might have rendered improper, at that time, and an event little agreeable to the American Government, a ratification extended in the usual form, which, relapsing upon the said instrument with all and each of its clauses and articles, would, consequently, embrace those of the eighth article, referred to in the form in which it had been conceived. This being the case, and His Majesty being desirous, conformably to the intention of the Cortes, that the ratification of the treaty should terminate at once all the differences which have for so many years existed between the two Governments whose interest in a reciprocal good understanding has been increased by the nature of their political institutions, has thought it necessary that, for extending the ratification, an explanation should precede, limited and circumscribed to the point of the modifications which your Excellency's Government requires to be in the text of the eighth article, since all the other articles present no difficulty, nor need any further explanation in order to be ratified, on the part of His Majesty, according to their literal tenor. Your Excellency's Government has indicated a desire of having a modification in the context of the said article; and as, for determining what ought to be and what is agreeable to the interest of both countries, it may be necessary to proceed by common consent, I am desirous of knowing if your Excellency is authorized to point out the modification and explanation, as I also am by His Majesty for the same purpose. If your Excellency be so, we might, in a very few days, have this point settled in a manner reciprocally satisfactory; and, in case of your not being so, I could desire at least that we had a conference for the purpose of agreeing

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on the means by which this only obstacle may be removed, which might present itself to the exchange of the ratifications in Washington, if it should be remitted by His Majesty, extended in the usual form, embracing all and each of the clauses of the sixteen articles of the treaty confirmed at Washington on the 22d of February of the past year, 1819.

I therefore renew to your Excellency the assurances of my distinguished esteem, and pray God that you may live many years.

I am your Excellency's most obedient, faithful servant,

E. PEREZ DE CASTRO.

To the MINISTER of the United States.

No. 2.

*Mr. Forsyth to Mr. De Castro, dated*

MADRID, October 7, 1820.

SIR: I had the honor to receive yesterday your Excellency's official, announcing to me that the Cortes had authorized the Government of His Majesty to ratify the cession of the Floridas to the United States. In reply to the inquiry contained in it, I must refer your Excellency to my letter of the 21st of July, in which I stated, by the instructions of the President, that, under the Constitution of the United States, it would be necessary that the advice and consent of the Senate should again be given, before the exchange of ratifications of the treaty of the 22d February, 1819, could take place, inasmuch as the six months within which it should have been made had expired. I am not, therefore, authorized to do more than has already been done. Perfectly possessed, however, of the opinions and wishes of my Government in relation to the eighth article of the treaty, I can give your Excellency all the information that can be desired to prevent the possibility of any difficulty in the exchange of ratifications at Washington. In my official communication of the 2d of October, 1819, to the Duke of San Fernando and Quiroga, accompanied by the copy of a declaration to be delivered on the exchange of ratifications, should it be made, your Excellency will probably find all that it may be important to know. If these should not be sufficient, it will give me pleasure to confer with your Excellency at any hour it may be convenient for you to appoint. In expressing to your Excellency the very great satisfaction I have received from the near prospect of a most friendly termination of the disputes which have so long unhappily agitated our respective Governments, I must take leave to add that the United States have never desired to change or modify any part of the treaty of 1819; their sole object has been, and still is, to have it ratified upon the well-known terms, and according to the acknowledged intentions of the respective negotiators of it.

I renew your Excellency, to whom may God preserve, the assurances of my most respectful consideration.

JOHN FORSYTH.

DON E. PEREZ DE CASTRO, &c.

No. 3.

*Mr. De Castro, Minister of Foreign Despatch, to Mr. Forsyth, Minister Plenipotentiary of the United States of America, dated at*

MADRID, October 9, 1820.

SIR: On the 6th current I had the honor to communicate to your Excellency that the Cortes had authorized His Majesty's Government to cede the Floridas to the United States; and that, in consequence of that act, no other obstacle presented itself against proceeding, on the part of the King, to the ratification of the treaty confirmed at Washington the 22d February, 1819, except that which arose from the modification or explanation of the eighth article of the same treaty, solicited by the American Government after the confirmation, and even the ratification, on its part, of the said agreement; adding that, if your Excellency were authorized, we could proceed to make the desired explanation, with regard to the object of said eighth article, in terms agreeable to the interests of both countries; that we could terminate this business very soon; and that, by all means, I was desirous of a conference between us, in order to the removal of this only obstacle which could oppose the exchange of the ratifications in Washington. Your Excellency has had the goodness to reply to me, dated the 7th, complimenting me on the proximity of an order that went to terminate the differences that existed for so long a time between the two Governments, but manifesting to me at the same time that, in consequence of the period fixed for the ratification of the treaty by that instrument having been overrun, it ought again to be presented to the Senate of the United States, agreeably to the Constitution; by which circumstance your Excellency had not the power to act in the negotiation further than you had done, although, being perfectly instructed in the intentions of your Government upon the said article of the treaty, you could furnish me with the necessary dates in regard to them in the conference which we might have, and which we actually had on that day.

Both yesterday and before, I had the honor to point out to your Excellency the difficulties which opposed the explanation or modification demanded by the American Government of the context of the eighth article, since, according to the literal and very explicit tenor of it, every donation or grant of lands in the Floridas made by authority of His Majesty, prior to the 24th January, 1818, was declared valid or firm, at the same time that every grant made after the said 24th of January was annulled. It appeared at the same time, that the determining of that date was not a casual occurrence, unpremeditated, and directed solely to mark one day or epoch; since then nothing could have been more obvious and natural than to have designated the 1st day of the same month of January, 1818, which was the beginning of the year; and it was distinctly considered that the intention of the Plenipotentiaries was to establish a principle legal and justly expressed in the text of the same article, in continuance from the date, which it was to give for a foundation—that His Majesty's

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Plenipotentiary on that day solemnly offered the cession of the Floridas to the United States, in order to denote that it was then, and not before, when His Majesty, by said offer, tied up his hands from making innovations in those territories, and when, by the same offer, the indisputable right, which, without that, enabled him to dispose of the absolute property of any lands belonging to his Crown, was suspended. The tenor of this article was already not only admitted and confirmed by the Plenipotentiaries, but was also ratified by the American Government, jointly, with all the other articles which the treaty embraced, when the Secretary of State, Mr. Adams, thought fit to ask of Mr. Onís an explanation about the grants of land made by His Majesty at the end of the year 1817, the validity of which appeared to have been recognised by the letter of the treaty, they being anterior to the 24th January, 1818, and upon which both Plenipotentiaries were supposed to have proceeded with a certain equivocation of the fact, having believed them posterior to the epoch mentioned. Mr. Onís, notwithstanding that all his functions and powers upon the subject had expired with the conclusion and confirmation of the treaty, did not refuse to give a firm proof of the good faith of his Government, and of his own, by frankly confessing that in fact he had understood that the grants of land referred to were posterior to the 24th January, 1818, but added at the same time a circumstance worthy of notice, and perfectly conformable to the tenor of the eighth article; and it was that, as the fixing of that epoch had been founded upon the principle that the 24th January, and not before, was the day on which, by means of the solemn offer of the Floridas, the indisputable power which His Majesty before had of disposing of those lands remained suspended, if he had known that all or any of said grants were anterior to the 24th January, he would have insisted upon the acknowledgment of such as were so, and would not have consented to their being annulled. Taking the first part of this declaration of Mr. Onís as a foundation, and feigning ignorance of the second, the American Government solicited, by means of your Excellency at this Court, that, to the ratification of the treaty on the part of His Majesty, an explanation should be added, which was fundamentally a real revocation of the literal context of the eighth article. The scrupulous good faith of His Majesty's Government restrained it from entering upon a question about what wrong the equivocation, or, to speak more properly, the want of exact knowledge of a fact, authentic, solemn, and of more than a year's notoriety and publicity in a supreme council and chancery of the nation, could do to one who had the means, and, in a certain degree, the necessity of being informed of it with evidence. But two essential points did not cease to call the attention of His Majesty: 1st. That if any equivocation could have happened about the date of the grants, in order to their being a pure deed, it never could have been, nor was it, in the recognition of the principle which served as a basis, and was the real foundation of the eighth article—that is, that the Spanish Government did not consider itself bound,

nor did the American Government consider it bound, in the use of its right as absolute lord of the lands of Florida, unless by means of the offer made on the 24th January, 1818, and only from that epoch; that an essential equivocation could have been in this date, it was necessary to prove that it was not that of the said solemn offer, since that was the module or symbol to which all the dates of the grants ought to be adjusted, and with which they ought to be compared, in order to decide upon their validity or nullity, and not to pretend, as had been pretended, to accommodate it to the others, by altering that date inversely. 2d. That if the American Government availed itself of, and founded its desires of an explanation upon, the former part of Mr. Onís's declaration, which in any way favored it, neither could it in honor and good faith reject the second part of that declaration, to constitute the whole one self-same act and a single document. If Mr. Onís confessed the equivocation about the date of the grants, he also confessed that he would not have, for his part, subscribed to annul that which had taken place anterior to the 24th January. What will be inferred, then, in reality and sound logic, from that declaration, taken conjointly? Will it be an accident which had expressed the real, or at least the intentional, connivance of both the Plenipotentiaries concerning the annulling of the grants referred to, which were anterior to the 24th January, as the American Government pretends? An interpretation like this is diametrically opposite not only to the second part of the declaration of Mr. Onís, but even to the legal principle established in the same eighth article. All that can be inferred, at most, was, and is, that the error into which both parties had run about the substance of the eighth article had rendered it null, invalid, and baseless; and that it was necessary to remodel it, and agree upon something to the point by a new mutual agreement, and not by the way of a declaration or explanation, which its context did not admit.

The question accidentally presented in this humble view would not have been offered, nor given an opportunity for the many difficulties which have occurred. The grants made to Don Pedro de Vargas could have been immediately separated, and, as being posterior to the 24th of January, 1818, might have been declared the property of the United States, according to the letter and spirit of the article; and, with regard to the other two, anterior to the said day, upon which grants the equivocation had relapsed, the liberal medium might have been adopted, which is generally used in doubtful cases, by yielding to each one a part of his claims, in compliance with a good understanding. But as this was not solicited by your Excellency, and if the text of the eighth article, whose letter, and the principle which supported it, favored Spain, might yet receive an interpretation diametrically opposite to the said letter, being founded for that purpose on a declaration of Mr. Onís, the second part of which evidently resisted a similar interpretation, difficulties seemed easily to arise from hence, which, with more or less foundation, might be

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likewise converted into suspicions concerning the stability of the other articles of the treaty, on seeing the readiness with which doubts had arisen also concerning one, the literal tenor of which seemed less ambiguous. This disposition of the thoughts brought to recollection the offer of a guarantee of the Spanish possessions in North America, made by his Excellency Mr. Pinckney, on the 7th of February, 1802, in the name of the United States, in case the Spanish Government would consent to cede the Floridas to the United States for a sum to be stipulated—a guarantee which was not asked by the Government of Spain, and yet offered in the name of the United States, but to which any Government gave so much importance, that, if his offer had been renewed, it would have ceded in compensation any right over the grants of land which remained by the eighth article of the treaty. From these principles slowed, no doubt, the new mission of General Vives to the United States, and all the other incidents of which your Excellency is informed.

The changes which happened a little afterwards in the Government of Spain, and the reunion of the national representation, have been the cause that the Government of His Majesty, complying with the provision of the constitution of the State, should offer to the consideration of the Cortes all that has occurred in this long and complicated negotiation, for the purpose of obtaining their consent, as well as that the dismemberment of the Spanish territory in America might be discussed. It must have been a sensible grief to the representatives of the nation, in the first steps of their august functions, to be obliged to authorize a dismemberment of the territory; they have been solely guided by the consideration that this sacrifice may be conducive to cement upon a solid basis the relations of friendship and harmony between Spain and the United States, by avoiding the causes of future discords, and establishing a fixed and permanent dividing line which shall prevent all ambiguity and indecision for the future. Besides the reciprocal interests which ought always to unite the Governments of both countries, the great analogy which now actually exists between their political institutions, after the change that has occurred in those of Spain, appears to have given greater weight to that interest, and to have increased the importance of a good understanding. These, at least, are the dispositions which have produced the resolution I have mentioned of the representatives of the Spanish nation: may they be answered with similar and reciprocal dispositions on the part of the Government and people of the United States for the well-being of both nations! But at the same time that the Cortes and His Majesty's Government have rendered easy even the most serious difficulty which the subject could present, they could not but direct their attention to the reflections made known to your Excellency, which have been expressed above, on the explanation which the American Government desired to give to the eighth article, diametrically opposite to its literal tenor, and to the principle or rule which is established in the same article. The Spanish Government does not

pretend that it may not be firm and be executed as it is printed; its delicacy does not permit it to pretend ignorance of the equivocation committed, which the declaration of Mr. Onís lays open sufficiently in its first part; but this equivocation does not destroy the principle which serves as the basis for the formation of the article to which the second part of the declaration of the same Mr. Onís is evidently referred. It cannot be agreeable to the honor and the good faith of the American Government to take advantage of that part of the declaration of the said Minister, or of any act or instrument which it may find useful, in order to tie it down and quote it in its favor, and to pretend not to understand that which does not favor it in the same instrument. No impartial person, who examines the eighth article, and the declarations of Mr. Adams and Mr. Onís, will see in the whole of it any thing else but that, by the involuntary error which has intervened, there has not been a real contract or agreement upon the point of the waste lands; and that, if there is any thing existing in the article, it is the rule or principle of leaving untouched what the King did when his hands were not bound by means of the offer of the 24th of January, 1818.

In this case, then, it appears that harmony, the desire of peace, the honor of both Governments, and the necessity of repairing an equivocation that had passed their Plenipotentiaries, dictate that middle path which is proper in doubtful cases and questions of this nature. The grants made to Don Pedro de Vargas may remain immediately in favor of the United States, because, inasmuch as they are posterior to the 24th January, 1818, they are excluded by the letter and by the spirit of the eighth article; and those, respectively, to Alagon and Puno Rostro, which, as anterior to the 24th of January, 1818, constitute the real point of the doubt, may be divided by equal parts, or by the mode which may be agreed upon by the Spanish and American Governments. His Majesty, agreeably to the intentions of the Cortes, is desirous of being able to make a better exchange of property by applying one part of this fund to the redress and indemnification of the Spaniards injured, and comprehended in the agreement of 1802, whose indemnification was at the charge of the American Government, even whilst the treaty was not ratified, and whose lot was entirely unattended to by the Plenipotentiaries of 1819. The American Government and Congress, so jealous of the interests of their fellow-citizens, can do no less than applaud these correct intentions of the King and the representatives of the Spanish people towards their own people. On the other hand, it would appear very indecorous that the Cortes, in the commencement of their august functions, should not only have to authorize the dismemberment of the territory, but also to assent that a doubtful act, which was in favor of Spain, (the letter of the article, and the foundation on which it is supported,) should be explained in a sense diametrically opposite to its tenor, and that upon the basis of a declaration of the Spanish Minister truncated and disregarded in its second part.

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If the means hinted had not been thought admissible, there still remained another equally conformable to the spirit and to the letter of the treaty. All the waste lands of the Floridas, including the three grants of Vargas, Alagon, and Punon Rostro, may be valued according to the prices of lands of their class in the bordering territories of the United States; the amount of \$5,000,000 may be deducted from their value, in which the same treaty adjusts, and with which the American Government obliges itself to satisfy, the amount of the claims; and the surplus may be declared to belong to Spain, because it can liquidate the indemnifications of its subjects, for which the United States are responsible by the agreement of 1802, which continues in force whilst the treaty is not ratified. It may be objected that the claims exceed the sum agreed upon; but it ought also to be considered that, even to this day, an examination or liquidation of such claims has not taken place; and that, if the agreement of 1802, and the mixed tribunal established by it, had been carried into effect, perhaps the claims admitted and approved of by the mixed Spanish and American tribunal might not have amounted to the said sum, especially if the fifth commissioner, chosen by lot, had been of the nation which was bound to pay them; so that, on the whole, \$5,000,000 being the sum which the treaty fixes, and there having been even to this day no examination or liquidation of individual claims, this sum, and no other, is that which legally represents the amount of said indemnifications.

Such have been the reflections and observations which I have had the honor of making to your Excellency in our two conferences, by order of His Majesty, conformably to the intentions of the Cortes. By these, and by all besides, which I had the honor to point out by word, your Excellency will have come to the knowledge of His Majesty's resolution to terminate entirely the subjects pending by means of a prompt exchange of the ratifications of the treaty. I have been very sensible that your Excellency has not been authorized to agree to the explanation which the eighth article requires, but I am assured, by the candor, good faith, and spirit of conciliation, which animate your Excellency, that you will present to your Government the observations referred to, in regard to the only point upon which an explanation is desired by both parties—that, at the time of General Vives's presenting the ratification of the treaty on the part of His Majesty's Government, which it is about to send, an explanation may be presented and submitted of the sense of the eighth article, in the terms of equity and reciprocal satisfaction which I have hinted, or others equivalent, such as the good faith and the honor of both Governments dictate. The King and the representatives of the Spanish nation see, in this honorable and impartial explanation, the beginning of a new order of political relations, which, by tightening the bonds of friendship between both nations, present the most sure guarantee to their union and prosperity in future.

I renew to your Excellency the assurances of my most exalted and distinguished consideration,

and pray God that your Excellency may live many years. Your obedient, humble servant,

E. PEREZ DE CASTRO.

No. 4.

*Mr. Forsyth to Mr. De Castro.*

MADRID, October 10, 1820.

SIR: I had the honor, last night, to receive your Excellency's official of the 9th. From our two conversations, previously held, and from your letter embodying the substance of what was suggested and urged in those conversations, I learned, with concern, that I had mistaken the object and intention of the note of the 6th instant. I supposed it intended merely to enable your Excellency to determine on the most convenient mode for the ratification of the convention of February, 1819, by His Catholic Majesty, to prevent any discussion or delay preceding the exchange of the ratifications at Washington. It was with unfeigned surprise and great regret that I discovered that the object was to bring again into view what is considered by the Government of the United States as no longer a subject of discussion with that of His Majesty. In the verbal communications I have made in our two conversations, my intention was solely to prevent, if possible, any further attempts to discuss this matter, satisfied that no advantage could be derived from a reference to a topic of such an unpleasant character. As I have had the misfortune not to produce this desired effect, I do not think myself authorized to enter into any further investigation of the subject. I shall communicate to my Government the notes received from His Majesty; and such replies will be given to General Vives as the case may require. But I cannot take leave of the subject, without stating, explicitly, that the official communication made to your Excellency on the 31st July was framed and bottomed upon the admission of General Vives, that he was satisfied with the explanations given at Washington on the subject of the eighth article of the treaty, and that it was the determination of his Government to assent to the total nullity of the large grants. If this admission was unauthorized, the offer of the President I had the honor to communicate to His Majesty, through your Excellency, is not obligatory upon the United States; the whole ground of dispute is open for re-examination; and the original claims and pretensions of my Government will be reasserted and maintained.

Although beyond my duty, I cannot forbear to remark to your Excellency that a great error is committed in supposing the construction put on the eighth article by the United States is founded altogether upon the declaration given by Mr. Onís after the signature of the treaty. This construction is taken from the instrument itself, explained and elucidated, as all instruments must be, by the intention of the parties, and the nature of the subject-matter of it. Mr. Onís's letter of the 10th October is no further of importance than as a simple evidence to all nations, and to His Catholic Majesty, of the act and intention of his Minister to an-

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nul the large grants, and the express recognition by him of the correctness of the assertion of the American negotiator, that the phrases supposed to be equivocal were admitted only upon the condition that the annulment of those grants was not affected by the use of these favorite phrases. The qualifying addition to Mr. Onís's frank declaration of what he believed and understood, amounts to nothing more than an assertion that the treaty would not have been agreed to without a recognition of such of the large grants as were of a date prior to the 24th January, 1818—an assertion altogether at variance with the declarations of Mr. Pizarro to Mr. Erving, that these donations would not be obstacles to the treaty, contradicted by Mr. Onís's perfect readiness to annul them, and by the reasons he assigned for it, "that the essential conditions of them had not been complied with," and altogether irreconcilable to a remark made to me in person by the Marquis of Casa Yrujo when Minister of State *ad interim*, "that he regretted the large grants had not been particularly named in the treaty, and their annulment expressly stipulated."

From an anxious desire to see buried in oblivion all recollections unfavorable to the perfect harmony between Spain and the United States, in closing this note, I would entreat His Majesty's Government to re-examine this whole subject before it is again pressed; to reflect that all that has occurred has arisen from a reliance on the information and good faith of the Minister, and confidence in the purity of the Government of Spain. The Duke of San Fernando stated that the American Government wished to change the eighth article by a declaration, a copy of which I had enclosed to him. Your Excellency now tells me the wish of the American Government is diametrically opposed to the literal text of the treaty, inasmuch as Alagon and Punon Rostro's grants are of a date prior to the date fixed in the eighth article. The Duke of San Fernando refused, as inconsistent with the honor of the King, to order me copies of those donations! What would your Excellency think, were I to say to you, "Sir, I do not know that your assertion is true; show me the donations!" If the Duke of San Fernando and Quiroga thought his general assertion that the declaration changed the treaty was so full that further information could not be asked without reflecting upon His Majesty's honor, what would be the reply to a doubt of the correctness of your Excellency's unqualified, deliberate, and explicit assertion? Yet, in relying upon the information and the word of Mr. Onís, the United States had the same reason to confide, as they now have, in the assertion made by your Excellency, unless it should be supposed that there is a difference in the degree of confidence due to the representative of Spain at home and abroad. I feel, however, that I am treading upon the yet warm ashes of a previous unprofitable controversy, and exceeding the limits to which, at the outset, I proposed to confine myself.

I hasten, therefore, to assure your Excellency that the United States wish nothing but what they believe to be just and equitable; what is equally hon-

orable to Spain and to the United States; nothing inconsistent with the decorum and glory of His Catholic Majesty, or with the duties and obligations of the Cortes, by whose advice and authority the treaty of February, 1819, is to be ratified.

I renew to your Excellency, whom may God preserve many years, the assurance of my perfect respect.

JOHN FORSYTH.

DON E. PEREZ DE CASTRO, &c.

No. 7.

*Mr. De Castro, Minister of Foreign Despatch, to Mr. Forsyth, Minister Plenipotentiary of the United States of America at Madrid.*

PALACE, October 11, 1820.

SIR: I have received your Excellency's note of yesterday's date, in which you seem to agree with mine of the 9th. In said note I proposed to myself to recapitulate, and send to you all the essentials of the controversies which we had on the two antecedent days, not with the view, which your Excellency appears to have apprehended, of commencing new discussions incompatible with the desire which animates His Majesty of seeing all the points which have been the object of the treaty speedily terminated, but with that of agreeing here with your Excellency upon the proper terms of extending the explanation or declaration of the eighth article in a mode satisfactory, and such as that the exchange of the ratifications might not experience any obstacle or inconvenience at Washington.

On a view, therefore, of what your Excellency had the goodness to express in the said conferences, and of what you manifested in your said note of yesterday, I confine myself to secure that which was contended for in the ratification on the part of this Government; which will be sent back to the United States, in terms which will be no doubt satisfactory to the American Government, and which avoid the discussions which your Excellency seems to fear, to ascertain that neither the tenor of our conferences, nor that of my said note, is intended for this object, which inspires your fear.

If your Excellency should please, in order to forward despatches to your Government, to avail yourself of the opportunity of a courier, who must be despatched as soon as possible, with the ratifications and packets for General Vives, you may begin to prepare them immediately; in expectation of which, I shall again give you information some hours before the departure of the courier.

I renew to your Excellency the assurances of my high consideration, and pray God that you may live many years.

I am your obedient and humble servant.

E. PEREZ DE CASTRO.

No. 8.

*Mr. Forsyth to Mr. De Castro.*

MADRID, October 11, 1820.

SIR: I have received, with great satisfaction, your Excellency's note of this day's date. If I

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have misapprehended the object in our conferences, and the tenor of the note of the 9th, your Excellency must do me the justice to impute it to my imperfect knowledge of the Spanish language, and to my anxiety to comply with your Excellency's request to give an immediate answer to the note.

I shall with pleasure use the occasion you have offered to me of sending despatches to my Government by the Spanish courier. A messenger will go from this legation to the United States the close of the present week. Should your Excellency have any thing to send to General Vives, it will gratify me to forward it by this opportunity.

I renew to your Excellency, whom may God preserve many years, the assurance of my most distinguished consideration.

JOHN FORSYTH.

DON PEREZ DE CASTRO.

*Mr. Forsyth to Mr. Adams, (marked private.)*

MADRID, October 12, 1825.

DEAR SIR: I have this moment learned that the Cortez, in authorizing, by an almost unanimous vote, the ratification of the treaty, and annulling the donations, at the same time recommended to the Ministers to endeavor to procure some advantages to the nation on account of the difficulty about the eighth article. With this recommendation the Ministers must comply, even although they may be satisfied the effort will be useless. The attempt once made, and failing, the affair will proceed to its proper conclusion without further trouble. I am, dear sir, very sincerely, your obedient servant,

JOHN FORSYTH.

HON. J. Q. ADAMS, *Washington.*

*Mr. Forsyth to Mr. Adams, (marked private,) dated*

MADRID, October 15, 1820.

DEAR SIR: In great haste I send you a rough copy of a note from Mr. De Castro to Count Bulgary, of this day's date. I believe the Count Bulgary has enclosed in the accompanying letter to Mr. Poletica a copy of the same paper.

I had on the 14th a short conversation with the Spanish Minister, which served to confirm the opinion expressed in my private letter of the 12th instant.

I am, dear sir, respectfully, your obedient serv't,

JOHN FORSYTH.

HON. J. Q. ADAMS, *Sec'y of State.*

*The Spanish Minister to the Chargé d'Affaires of Russia.*

MADRID, October 15, 1820.

SIR: His Majesty's Government having given information to the Cortes of the nation concerning the existing differences with the United States of America, resulting from the treaty entered into between Spain and that Power on the 22d of February, 1819, and not ratified by the King, in

order that the legislative power might authorize His Majesty to cede the two Floridas, as is stipulated in one of the articles of said treaty, and grant power to proceed, consequently, to the ratification of it, which His Majesty has thought fit to do, and the Cortes having resolved to give to the Government the authority required, carries into effect the ratification.

His Catholic Majesty, to whom are evident the good offices of His Majesty the Emperor of all the Russias at several stages of the negotiation with the American Government, proving his august and friendly solicitude in favor of Spain, discharges the grateful task of communicating to the Cabinet of his Imperial Majesty the flattering state in which this affair is, and the resolution of His Majesty to ratify the treaty mentioned, which will produce the re-establishing of that perfect harmony between Spain and the United States which it is of so great importance to both Powers to maintain without the least shadow of discord.

With this motive the King rejoices to repeat to his august friend the Emperor of all the Russias the esteem and gratitude with which, on all occasions, he has seen His Imperial Majesty take the most distinguished interest in the prosperity of His Majesty, and that of his people, &c.

[Signed by the Spanish Minister, and addressed to the Chargé d'Affaires of Russia.]

*Extract of a letter (No. 22) from Mr. Forsyth to Mr. Adams.*

MADRID, October 24, 1820.

The delay of the departure of the Spanish messenger enables me to give you copies of my correspondence with Mr. De Castro subsequent to the decision of the Cortes on the cession of Florida, in regard to the execution of the convention of February 22, 1819. No. 1 is a copy of my note calling the attention of the Spanish Minister to the provisions of the first and seventh articles of the treaty. I saw Mr. De Castro on Saturday; he had received my letter; the propriety of issuing the order suggested in my note had not escaped him, and he would send, as I requested, a copy of it as soon as it was made. To-day I received his answer, with a copy of the order to which it refers. Copies are marked Nos. 2 and 3.

No. 1.

*Mr. Forsyth to Mr. De Castro.*

MADRID, October 17, 1820.

SIR: By the seventh article of the convention of the 22d February, 1819, the ratification of which is preparing on the part of His Catholic Majesty to be sent to General Vives, at Washington, it is stipulated that the officers and troops of His Majesty shall evacuate the Floridas within six months after the exchange of ratifications, or sooner if possible, and shall give possession of them to the officers or commissioners of the United States who may be properly authorized to receive them. Calculating on a speedy exchange of ratifications, I would suggest, if it has not already occurred to



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your Excellency, that it would be extremely convenient if the order of His Majesty for the evacuation and delivery of the territory, as also the archives and documents relating to the sovereignty and property of the same, should go to General Vives with the ratified treaty, to be forwarded to the proper authority on the exchange of ratifications, as by these means the United States would have timely notice to prepare the escort and transports to carry the officers and troops of His Majesty and their equipage to the Havana, in conformity with the obligation of the said article. I should be pleased to be enabled, by the politeness of your Excellency, to furnish to my Government a copy of this order, if His Majesty's Government should send it to General Vives.

I seize with avidity every occasion to offer to your Excellency, whom may God preserve, the assurance of my distinguished respect.

JOHN FORSYTH.

No. 2.

*The Minister of Spain to Mr. Forsyth.*

PALACE, October 24, 1820.

SIR: I have received your esteemed note of the 17th current, in which you say that you have taken the liberty of suggesting to me, in case it should not have already occurred to His Majesty's Government, it would be extremely convenient if the order of His Majesty for the evacuation and delivery of the Floridas, and of the archives and documents relating to the sovereignty and property of those provinces, should go to General Vives with the ratification of the treaty; that it should be sent, at the same time, to the proper authorities, in order to be transmitted after the exchange of the ratifications; and that it would be very agreeable to your Excellency to have it in your power to send a copy of said order to your Government, if His Majesty should transmit it to General Vives, and should find no inconvenience in granting it.

The idea had occurred to His Majesty's Government, as it could not fail to do, of transmitting to General Vives the proper order for the delivery of the Floridas, and whatever else is stipulated in the seventh article of the treaty of the 22d February, 1819, in order to be forwarded to the proper authorities, after the exchange of the ratifications. Estimating, as it deserves, your Excellency's suggestion, produced, no doubt, from a desire of connecting more closely the relations of amity and good understanding between Spain and the United States, by removing every obstacle or distant incident which might retard so desirable an object, and cheerfully acceding to the desire which your Excellency has manifested to me of obtaining a copy of the order which may be sent to the proper authority for carrying into effect the seventh article of the treaty, I have the honor of enclosing to you a copy of that which is addressed to the Captain General of the island of Cuba, through the medium of General Vives, in order that he may make use of it immediately after the exchange of the ratifications has been certified.

In all to-morrow an extraordinary courier will

go to convey the despatches of the Government to His Majesty's Minister in the United States; and I have the satisfaction of giving your Excellency this advice beforehand, that you may, if you please, forward any packets to your Government by this opportunity; in which case, I hope you will have the kindness to send me them by two in the afternoon, of to-morrow, the 25th current.

I renew to your Excellency the assurances of my distinguished consideration, and pray God that you may live many years.

Your most humble and obedient servant,

EVARISTO DE CASTRO.

No. 3.

*Translation of the royal order of the King of Spain to the Captain General and Governor of the island of Cuba and of the Floridas.*

OCTOBER 24, 1820.

Ferdinand the Seventh, by the grace of God, and by the Constitution of the Spanish monarchy, King of the Spains, to you, the Captain General and Governor of the island of Cuba and of the Floridas:

Know you that, by a treaty concluded in the City of Washington on the twenty-second of February of the last year, one thousand eight hundred and nineteen, by plenipotentiaries duly authorized for the purpose of arranging the differences which have existed between the Government of Spain and that of the United States of America, and the limits of their respective territories, there was stipulated, on the part of Spain, the cession to the United States of all the country situated east of the Mississippi, known by the name of East and West Florida; the adjacent islands dependent upon the two Floridas being comprehended in said cession; together with all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings which are not private property, with the archives and documents which relate directly to the property and sovereignty of said provinces; it being provided at the same time that the inhabitants of the territories so ceded shall be secured in the free exercise of their religion without any restriction; and that all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, in order that they may better effect their purpose without being subject, in either case, to duties; and those who prefer remaining in the Floridas shall be admitted, as soon as possible, to the enjoyment of all the rights of citizens of the United States; it being added, by another article of the same treaty, that the Spanish officers and troops shall evacuate the said territories ceded to the United States six months after the exchange of the ratifications of the same treaty, or sooner if possible, and shall give possession of them to the officers or commissioners of the United States duly authorized to receive them; and that the United States shall provide the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana.

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And I, having considered and examined the tenor of the articles of the treaty, after having obtained the consent and authority of the General Cortes of the nation with respect to the said cession, have thought proper to approve and ratify the treaty referred to, the ratification of which must be exchanged at Washington with that which was formed by the President of the United States with the advice and consent of the Senate of the same; after which exchange, the said treaty will begin to be obligatory on both Governments and their respective citizens; therefore I command you, and ordain, that, after the information, which shall be seasonably given you by my Minister Plenipotentiary and Envoy Extraordinary at Washington, of the ratifications having been exchanged, you proceed, on your part, to make the proper dispositions, in order that, at the end of six months, counting from the date of the exchange of the ratifications, or sooner if possible, the Spanish officers and troops may evacuate the territories of both Floridas, and that possession of them be given to the officers or commissioners of the United States duly authorized to receive them, in the understanding that the United States shall provide the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana. You shall arrange, in proper time, the delivery of the islands adjacent and dependent upon the Floridas, and the public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings which are not private property, as also the archives and documents which relate directly to the property and sovereignty of the same two provinces, by placing them at the disposal of the commissioners or officers of the United States duly authorized to receive them; and all the other papers and the effects which belong to the nation, and which have not been comprehended and mentioned in the express clauses of the cession, you shall have conveyed and transported to another part of the Spanish possessions which may be most convenient for the public service. As, also, you shall take care that, previous to the delivery, it may be made known by edicts to all the present inhabitants of the Floridas that they have power to remove to the Spanish territories and dominions, the sale or exportation of their effects being permitted to them by the United States at any time whatever, without being subject to duties; and also the advantages stipulated in favor of those who shall prefer to remain in the Floridas, to whom I have wished to give this last proof of the protection and affection which they have always experienced under the Spanish Government. Of the delivery which you may make, or be made by your delegation, in the form which has been expressed, you shall make, or cause to be made, a corresponding receipt, duly authenticated, for your discharge; and, in order that you may proceed with entire knowledge in the execution of this commission, there shall be likewise sent to you, by my Minister Plenipotentiary at Washington, an authentic copy of the treaty referred to of the twenty-second of February, one thousand eight hundred and nineteen, with the insertion of the

ratifications of both parties, and of the certificate relative to the exchange of the same; of which documents, and of this my royal order, you shall send a copy, in authentic form, to the Governors of both the Floridas, and to the person or persons who may have, in your name, the accomplishing of the delivery, if it has not been made by yourself.

All which you shall well and completely execute in the form which I have prescribed to you, agreeably to the public service, advising me of your having executed it through my underwritten Secretary of Despatch of State.

Given at Madrid, the 24th of October, 1820.

*Mr. Adams to General Vives.*

DEPARTMENT OF STATE,  
Washington, February 28, 1821.

SIR: I have submitted to the consideration of the President of the United States the observations which, in conformity to the instructions of your Government, were verbally made by you in the conference which I had the honor of holding with you, when you notified me of your readiness to exchange the ratifications of the treaty of 22d February, 1819, between the United States and Spain.

With regard to the omission on the part of the Spanish negotiator of the treaty to insist upon some provision of indemnity in behalf of Spanish claimants, to whom a pledge of such indemnity had been stipulated by the previously ratified convention of 1802—an omission stated by you to have been peculiarly dissatisfactory to the Cortes—I am directed to observe that, as in all other cases of the adjustment of differences between nations, this treaty must be considered as a compact of mutual concessions, in which each party abandoned to the other some of its pretensions. These concessions on the part of the United States were great; nor could it be expected by the Spanish nation that they would be obtained without equivalent. Probably the Spanish negotiator considered the claims of Spanish subjects embraced by that convention so small in amount as scarcely to be worthy of inflexible adherence to them; he certainly considered the whole treaty as highly advantageous to Spain—a sentiment in which the Government of the United States always entirely participated, and still concurs.

This also furnishes the reply which most readily presents itself to the proposition which you have also been instructed to make, that some compensation should be allowed by the United States for the benefit of the grantees of lands recognised by the treaty to have been null and void. While appreciating in all its force the sense of justice by which, after the maturest deliberation and the fullest examination, the Cortes have declared that those grants were so, as at the signature of the treaty they had been clearly, explicitly, and unequivocally understood to be by both the Plenipotentiaries who signed it, the President deems it unnecessary to press the remark which must naturally present itself, that, to grantees whose titles were in fact null and void, and by all parties to

*Suppression of the Slave Trade.*

the negotiation were known to be null and void, no indemnity can be due, because no injury was done.

Nor can it be admitted that this is one of the cases of misunderstanding from which the grantees could be entitled to the benefit of a doubtful construction. The construction of the article was in nowise doubtful; for any construction which would have admitted the validity of the grants would have rendered impossible the fulfilment of other most important stipulations of the treaty.

The discussion of this subject, having already been a subject of correspondence between the Minister of Foreign Affairs of your Government and Mr. Forsyth, could now be continued to no profitable purpose. I take much more satisfaction in assuring you of the pleasure with which the President has accepted the ratification of the treaty, as an earnest of that cordial harmony which it is among his most ardent desires to cultivate between the United States and Spain. This disposition he cherishes the hope will be further promoted by the community of principle upon which the liberal institutions of both nations are founded, and by the justice, moderation, and love of order which they combine with the love and the enjoyment of freedom.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

DON FRANCISCO D. VIVES, *Envoy, &c.*

[The following resolution was thereupon adopted by the Senate of the United States.]

IN SENATE OF THE UNITED STATES,  
February 19, 1821.

*Resolved*, (two-thirds of the Senators present concurring therein,) That the Senate, having examined the Treaty of Amity, Settlement, and Limits, between the United States of America and His Catholic Majesty, made and concluded on the 22d day of February, 1819, and seen and considered the ratification thereof made by his said Catholic Majesty on the 24th day of October, 1820, do consent to and advise the President to ratify the same.

#### SUPPRESSION OF THE SLAVE TRADE.

[Communicated to the House of Representatives, January 15, 1821.]

*To the House of Representatives:*

I transmit to the House of Representatives a report from the Secretary of State, with the enclosed documents, relating to the negotiation for the suppression of the slave trade, which should have accompanied a Message on the subject, communicated to the House some time since, but which were accidentally omitted.

JAMES MONROE.

WASHINGTON, January 12, 1821.

DEPARTMENT OF STATE, Jan. 11, 1821.

The Secretary of State has the honor of submitting to the President a copy of a despatch from the Minister of the United States at London, enclosing documents relating to the negotiation for the suppression of the slave trade, which should have been transmitted with those accompanying the Message of the President to the House of Representatives, of the 4th instant, but which were accidentally omitted.

JOHN QUINCY ADAMS.

*Extracts of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, November 19, 1819.

"I received, on the 14th instant, a note from Lord Castlereagh, dated the 11th, on the subject of the slave trade. The addresses from the House of Commons and House of Lords, to the Prince Regent, came with it. As the whole purport of this communication has been detailed beforehand, in my last despatch, I am not aware that any further explanations from me are now requisite.

"The distinct testimony which is borne in both these addresses, to the United States having been the first in point of time, among the nations of the world to abolish the trade, will be perceived with satisfaction. It is, so far as I know, the first occasion upon which the acknowledgment has been made, in any official or authentic manner, by any State in Europe.

"It appeared to me prudent to frame an answer of entire conciliation to Lord Castlereagh's note; and I hope that the spirit which it breathes may meet the President's approbation. It bears date on the 16th, and is among the enclosures transmitted herewith."

*Lord Castlereagh to Mr. Rush.*

FOREIGN OFFICE, Nov. 11, 1819.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has the honor to transmit to Mr. Rush, by command of the Prince Regent, copies of addresses which were presented by both Houses of Parliament, at the close of the last session, to His Royal Highness, which His Royal Highness has to request Mr. Rush will lay before the President, with an intimation that it is the Prince Regent's earnest desire to enter, without delay, into discussion with the Government of the United States upon the important subject to which those addresses refer, and in the successful accomplishment of which the common feelings and reputation of both States are equally and deeply involved.

It has occurred to the Prince Regent's Government, that the difficulties which have hitherto operated to prevent a common system of concert and prevention, as directed against the illicit slave trade, between the two Governments, can be most satisfactorily examined by selecting Washington for the seat of deliberation. Under this impression, the undersigned has delayed to transmit to Mr. Rush the addresses in question, till he could ac-

*Suppression of the Slave Trade.*

company them with some proposition to be conveyed to the Government of the United States for giving practical effect to the views of Parliament.

The undersigned having lately had the honor of acquainting Mr. Rush that Mr. Stratford Canning had been selected by the Prince Regent to replace Mr. Bagot, as his Envoy and Minister Plenipotentiary in America, and as that gentleman will proceed to his mission early in the Spring, the undersigned has to request Mr. Rush will invite his Government, on the part of the Prince Regent, to enter, as soon as may be after Mr. Canning's arrival, upon the proposed discussions.

Upon a subject so deeply interesting to humanity, the Government of the United States can never require any other impulse than that of its moral principles to awaken it to exertion; but, whatever of aid good offices can contribute to smooth the way for an amicable and advantageous proceeding on such a matter, the undersigned is convinced will be supplied by Mr. Rush's zeal and enlightened attachment to the success of the great cause which this inquiry involves; and in this view the communication is specially recommended to his personal support and protection.

The undersigned avails himself of this opportunity to renew to Mr. Rush the assurances of his distinguished consideration.

CASTLEREAGH.

MERCURIE, 7 die Julie, 1819.

"*Resolved*, That an humble address be presented to his Royal Highness the Prince Regent, to assure his Royal Highness that we acknowledge, with becoming thankfulness, the zealous and persevering efforts which, in conformity with former addresses of this House, his Royal Highness has made for accomplishing the total annihilation of the African slave trade by all the foreign Powers whose subjects have hitherto been engaged in it.

"That we also congratulate his Royal Highness on the success with which his efforts have been already attended; that guilty traffic having been declared, by the concurrent voice of all the great Powers of Europe, assembled in Congress, to be repugnant to all the principles of humanity and of universal morality.

"That, consequently, on this declaration, all the States whose subjects were formerly concerned in this criminal traffic, have since prohibited it; the greater part absolutely and entirely, some for a time, particularly on that part of the coast of Africa only which is to the north of the line. Of the two States which still tolerate the traffic, one will soon cease to be thus distinguished—the period which Spain has solemnly fixed for the total abolition of the trade being near at hand. One Power alone has hitherto forborne to specify any period when the traffic shall be absolutely abandoned.

"That the United States of America were honorably distinguished as the first which pronounced the condemnation of this guilty traffic; and that they have since successively passed various laws for carrying their prohibition into effect; that, nevertheless, we cannot but hear, with feelings of

deep regret, that, notwithstanding the strong condemnation of the crime by all the great Powers of Europe, and by the United States of America, there is reason to fear that the measures which have been hitherto adopted for actually suppressing these crimes, are not yet adequate to their purpose.

"That we never, however, can admit the persuasion, that so great and generous a people as that of France, which has condemned this guilty commerce in the strongest terms, will be less earnest than ourselves to wipe away so foul a blot on the character of a Christian people.

"That we are, if possible, still less willing to admit such a supposition in the instance of the United States; a people derived originally from the same common stock with ourselves, and favored, like ourselves, in a degree hitherto perhaps unequalled in the history of the world, with the enjoyment of religious and civil liberty, and all their attendant blessings.

"That the consciousness that the Government of this country was originally instrumental in leading the Americans into this criminal course, must naturally prompt us to call on them the more importunately to join us in endeavoring to put an end to the evils of which it is productive.

"That we also conceive that the establishment of some concert and co-operation in the measures to be taken by the different Powers, for the execution of their common purpose, may, in various respects, be of great practical utility, and that, under the impression of this persuasion, several of the European States have already entered into conventional arrangements for seizing vessels engaged in the criminal traffic, and for bringing to punishment those who shall still be guilty of these nefarious practices.

"That we therefore supplicate his Royal Highness to renew his beneficent endeavors, more especially with the Governments of France and of the United States of America, for the effectual attainment of an object which we all profess equally to have in view, and we cannot but indulge the confident hope that these efforts may yet, ere long, produce their desired effect; may insure the practical enforcement of principles universally acknowledged to be undeniably just and true; and may obtain for the long afflicted people of Africa the actual termination of their wrongs and miseries; and may destroy forever that fatal barrier which, by obstructing the ordinary course of civilization and social improvement, has so long kept a large portion of the globe in darkness and barbarism, and rendered its connexion with the civilized and Christian nations of the earth a fruitful source only of wretchedness and desolation.

"*Ordered*, That the said address be presented to His Royal Highness the Prince Regent, by such members of the House as are of His Majesty's most honorable Privy Council.

"G. DYSON.

"*U. D. Dom. Com.*"

[An address, precisely similar, was voted about the same time, and presented in due course, by the House of Lords.]

*Spain—Richard W. Meade.*

*Mr. Rush to Lord Castlereagh.*

LONDON, November 16, 1818.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honor to present his compliments to Lord Castlereagh, and to acknowledge the receipt of his note of the 11th of this month.

The copies of the addresses to His Royal Highness, the Prince Regent, from both Houses of Parliament, at the close of the last session, respecting the slave trade, which, by command of His Royal Highness, came enclosed in his Lordship's note, with a request that they might be laid before the President, the undersigned will lose no time in transmitting to the Secretary of State with that view. The intimation of its being the earnest desire of the Prince Regent to enter, without delay, into discussions with the United States, upon the important subject to which these addresses refer, and in the successful accomplishment of which the two nations have a common interest, will, the undersigned is persuaded, be met by his Government in the same spirit of elevated benevolence which has given birth to the desire in the mind of His Royal Highness.

The undersigned cannot avoid expressing his acquiescence in the opinion that the difficulties which have hitherto operated to prevent a system of concert against the illicit slave trade between the two Governments, are most likely to be satisfactorily examined by selecting Washington as the seat of deliberation. If, happily, they are of a nature to be removed, it is by such a transfer of the scene of a new endeavor that the best hopes may be formed; and it is hence, with a peculiar satisfaction that the undersigned learns that Mr. Canning, when proceeding on his mission to the United States, will carry with him such full instructions upon the whole subject as may prepare him for entering upon the interesting duty of giving effect to the views of Parliament. The undersigned will not fail to make known this intention to his Government, by the earliest opportunity that he can command.

Upon a subject so universally interesting to humanity, Lord Castlereagh has justly inferred that the Government of the United States can never require any other incentive than that of its own moral impulse to awaken it to exertion. But, if, upon the present occasion, it needed any other, the undersigned must be permitted to say that it would be abundantly found in the friendly and enlarged spirit of this renewed overture from the Government of the Prince Regent, and in the liberal justice rendered to the early and steadfast efforts of the United States in the cause of abolition, by the Addresses in question, from both Houses of the Parliament of this realm. Following up their uniform policy in this great cause, never tired of adopting new expedients of prohibition, where new evasions have pointed to their necessity, the undersigned feels happy in being able to state, feeling sure that the information cannot be otherwise than acceptable to the unwearied and useful zeal of his Lordship in the same cause, that,

besides the law of April, 1818, of which the undersigned had the honor to speak in his note of the 21st of December of that year, a subsequent act of Congress, of date so recent as last March, has raised up additional means for the extirpation of the baleful traffic. By this act the President is specially authorized to employ armed vessels of the United States to cruise upon the coast of Africa; and other new provisions are introduced for intercepting and punishing such delinquent citizens as may be found forgetful of the denunciations of their Government, no less than of their own moral duties, abandoning themselves to the enormity of this transgression. It is well known that the sentiments of the President are in full and active harmony with those of Congress, in the beneficent desire of putting a stop to this deep rooted and afflicting evil. With such pledges before the world, the undersigned cannot err in confidently anticipating that the fresh proposal of the Government of His Royal Highness will be promptly taken up at Washington, under the deepest convictions of their importance, and with every anxious desire for a favorable result that can be made compatible with the Constitution and other essential interests of the Republic.

The undersigned is happy to embrace this occasion of renewing to Lord Castlereagh the assurances of his distinguished consideration.

RICHARD RUSH.

SPAIN—RICHARD W. MEADE.

[Communicated to the Senate, February 14, 1821.]

WASHINGTON, Feb. 13, 1821.

*To the Senate of the United States:*

I transmit herewith to the Senate a copy of a memorial received from Richard W. Meade, together with a report of the Secretary of State concerning it.

JAMES MONROE.

DEPARTMENT OF STATE,

February 13, 1821.

The Secretary of State, to whom has been referred the letter and memorial to the President of R. W. Meade, has the honor of reporting his opinion:

That, from the nature of the claim, now first announced by Mr. Meade in the letter, it will be proper that it should be communicated to the Senate, when the ratification by Spain of the treaty signed on the 22d of February, 1819, shall be submitted to that body for their advice and consent to receive it in exchange for the ratification of the United States heretofore given.

With regard to the material facts alleged by Mr. Meade in support of his claim to a distinct and separate engagement, involved in the treaty on the part of the United States, to pay the whole of his liquidated demand upon Spain, he has been misinformed. Neither his nor any other individual claim was ever mentioned between the negotiators

*Spain—Richard W. Meade.*

of the treaty; no proposal was consequently ever made by Mr. Onís that it should be inserted by name. It was known that Mr. Meade had a large unliquidated claim on the Spanish Government, and he had been informed, according to his request, that it would be considered by the Government of the United States in common with others at the negotiation of the treaty; but of the amount or validity of the claim this Government had no knowledge sufficient to warrant any special engagement to assume it, had such a proposal been made; and by Mr. Meade's own statement, it was not liquidated until nearly a year after the signature of the treaty, and then without the privity of this Government, and not in the manner prescribed by the treaty for all claims provided for in it.

The argument of Mr. Meade's memorial, drawn from the law of nations as in his opinion applicable to the case, and founded upon a statement of facts, the most essential of which are unfounded, may be left to the sound judgment of the Senate.

The distinction drawn in the memorial between the claims of a citizen of one country upon the Government of another, arising from contract or from wrong, is undoubtedly so far just, that the claimant by contract cannot resort to the interposition of his own Government to obtain from the other satisfaction for his claim to the same extent as the claimant from wrong. The Government of the claimant by contract can interpose in his behalf only by its good offices, and cannot, as the memorial states, press to the extent of reprisals for the satisfaction of the claim. It has no right to interpose at all, without the solicitation of the claimant himself, who, having stated his interest upon his own confidence in the Government with which he contracts, may properly abide by the result of that confidence, without calling upon his country to make itself a party to his demand. But if he does appeal to his own Government for that adventitious aid to which other contractors with the same party, and on the same security, cannot resort, he thereby voluntarily makes his claim a subject of negotiation and of those compromises in which all national adjustments of individual claims must and do always consist. It is unnecessary to pursue this position into the detail of argument by which it is susceptible of illustration. No special provision for the individual claim of Mr. Meade, no express renunciation of it, was ever made or contemplated by the treaty; nor was any mention made of it by General Vives in delivering to me the ratification of his sovereign.

By the statement of the memorial itself, it was questionable to the Cortes and to the Spanish Minister of Finance whether it was included in the renunciations of the ninth article or not. If it was, Mr. Meade will be entitled to the indemnities stipulated by the treaty, and in the forms provided by the same instrument; if it was not, his resort is, as it originally was, exclusively to the Spanish Government; and the Cortes, in recognising his claim, have given directions for its payment.

JOHN QUINCY ADAMS.

## MEMORIAL.

WASHINGTON, *February 8, 1821.*

SIR: Since the recent intelligence from Spain has reduced it nearly to a certainty that the treaty concluded at Washington on the 22d February, 1819, has been ratified by the Government of Spain, and that it is speedily to be offered for the ratification of this Government, it becomes highly expedient that all the collateral and implied as well as the direct and explicit obligations which such ratification may carry with it should be fully understood and distinctly recognised before any definitive and irrevocable determination be taken in the business. My most vital interests are so deeply involved in the interpretations with which the terms of the treaty may be understood and accepted, and may, moreover, enter so essentially into the motives which might dictate the ratification or rejection of it, in the whole or in part, that I owe it as a duty equally to myself and to the Government to make a preliminary and frank declaration of the nature and extent of the indemnities which the ratification of the treaty may give me a right to claim from the United States. The validity of such a claim was, without doubt, prospectively contemplated and admitted by the functionaries directly concerned in the negotiation, if, as I have every reason to conclude was the fact, it formed the groundwork of any one of the treaty stipulations; nor do I apprehend that the tedious procrastinations and vexatious shifts which have since been interposed by the late administrators of public affairs in Spain have at all impaired the force of the original considerations and impressions by which our own Government was actuated. But the more definite and authentic shape which subsequent events have given to my claim, and the further development of the views of the Spanish Government respecting it, would alone have justified the propriety of this preliminary explanation, even if the full execution of the treaty did not mainly depend upon the collective wisdom and discretion of Congress, to whom the involved consequences of its stipulations are not supposed to be so distinctly enunciated as to the original negotiators. I shall submit it, with the most entire deference and respect, to your own judgment and discretion to devise the most proper and effectual mode, when the occasion shall arise, of communicating to the Senate an official notification of this claim, and also of recommending to Congress, among the measures necessary to carry the treaty into practical effect, a distinct provision for the complete and immediate satisfaction of the claim; so that its distinct recognition as one of the treaty stipulations may be concomitant with the treaty through its several stages of final ratification and complete execution. The advantages resulting from this mode of clearing away all ambiguities, and obviating future misunderstandings, are evident, besides saving me from expensive solicitations and ruinous delays.

In conformity to these views, I shall proceed, without further apology, to lay before you a summary exposition of my claim (as it has been fully

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recognised and admitted) upon the Spanish Government, and of the process by which the Government of the United States may become identified with that of Spain in the obligation to satisfy that claim immediately upon the exchange of ratifications.

As soon as I was released, through the humane and decided interposition of my country, from the prison to which I had been consigned by the unparalleled injustice and perfidy of some of the ministers and agents of the restored Government which superseded the illustrious Cortes, by whose wisdom and heroic constancy Spain had been saved from a foreign yoke, I lost no time in preferring the most urgent solicitations for the settlement of my claims, to an immense amount, upon the Spanish Government. These claims were due on account of extensive supplies of provisions and advances of money, at a time when the nation was in the most trying and doubtful crisis of its fate; to the timely assistance of which supplies and advances, it has been distinctly and gratefully acknowledged by the great body of patriotic Spaniards, both in public and private life, that the nation was mainly indebted for the ultimate achievement of its independence. Notwithstanding the counteractions thrown in my way from the same corrupt sources of selfish intrigue by which my most iniquitous imprisonment had been planned and prolonged, so manifest and so cogent was the equity of my claims, and so powerful the appeal to the gratitude of the nation, that the Government could not avoid giving serious attention to the case. It was notorious enough how unprepared they were to meet my demands, and, indeed, that the conscious embarrassment of the Government on that head was one of the mainsprings of action put in motion by the intriguers, who were permitted, for so long a time, to evade the pressing instances of Mr. Erving and my friends for my release, and even to nullify the effect of royal orders ostensibly commanding it. Very soon, however, after my release, they turned their attention to the Crown lands in Florida as a resource for discharging the debt; and, accordingly, it was insinuated to me that I might receive payment by means of an equivalent in those lands. But I knew that the Government of the United States had long contemplated a cession of the Floridas as the ultimate satisfaction and indemnity for the insults and injuries which our flag and commerce had sustained through the instrumentality, active or passive, of Spain. I therefore felt myself not only bound by the general obligations of a good citizen, but especially moved by the strongest sense of gratitude for the disinterested and magnanimous interference of my country in my behalf, to avoid every step which might possibly traverse even the ulterior and contingent views and projects of the Government in its diplomatic relations with Spain; and, accordingly, without stopping to inquire whether the negotiation had assumed such a shape as to give the United States any right, either absolute or inchoate, to insist upon specific indemnity in the Floridas, I addressed a letter to Mr. Adams, dated the 6th of June, 1818, (eight months before

the signature of the treaty,) in which I stated the proposition, expressly with a view to ascertain whether my acceptance of it would be agreeable to this Government. As soon as the answer of Mr. Adams, dated 18th September, 1818, informed me that this Government apprehended ill consequences from admitting the precedent of the grant in question pending the negotiation, as it might open a door for other grants, tending materially to diminish the value of the desired cession, I abandoned all thoughts of accepting payment in that mode, and applied myself exclusively to the direct means of obtaining satisfaction. Having experienced, throughout the whole affair, the greatest inconvenience from the dilatory proceedings of the Spanish Government, I presented, in the month of December, 1818, a memorial to the King, backed by an official letter from Mr. Erving, urging the appointment of two or three persons in the entire confidence of the King to audit and settle my claims. My petition was finally granted, and a junta or commission, consisting of four counselors, was accordingly appointed by a royal order. The report of that junta, on the 20th September, 1819, after a laborious and minute investigation of six or seven months' duration, and a critical examination into all the merits of the case, specifically admitted and passed my claim, to an amount less than I had all along stated, both directly to this Government and to Mr. Erving. The report of the junta, in frank and explicit terms, acknowledges and enforces the most cogent motives for the speedy satisfaction of the debt by the Spanish Government—motives avowedly derived, not only from the faith of the most solemn contracts, but from the national gratitude for the signal and meritorious services I had performed in the execution of those contracts. That report or award has been approved, ratified, and adopted, in all its terms, by the Spanish Government, and sanctioned by all the highest solemnities that can be invoked to bind the faith of the State.

The delay of the report to so late a period as September, 1819, was, in a great measure, occasioned by the multiplicity of contracts to be examined, and of departments from which information was to be sought. After the report had been sent in, it was returned, with various suggestions and observations from the Minister of Finance to the junta, who, after considering the suggestions of the Minister, on the 15th November, 1819, confirmed their first report, reasserting and enforcing all the reasons upon which it was founded, and even declaring that the sum awarded was less than what, in justice and equity, the Government ought to pay me. Still the Minister of Finance thought it necessary to consult, in succession, the Treasurer General of the kingdom and the Comptroller General of Accounts; and their decision concurring with that of the junta, the King finally ratified the award. A formal certificate was made out and delivered to me, signed by all the members of the junta, and approved by the Minister of Finance, by order and acting in the name of the King; and the royal seal is affixed thereto—solemnities observed only in cases of high commissions, and in

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affairs of the utmost importance. This certificate, (which, together with another royal order, was transmitted to me in May, 1820, by Mr. Arguelles, the new Minister of Finance,) imports the clearest and most unequivocal acknowledgment that the Spanish Government is indebted to me in the sum of \$491,153 33, and directs that the same shall be paid out of the funds of the Royal Finance Department, with interest.

The embarrassments of the new revolution, which ensued in the interval between the definitive award of the junta and its final ratification by the King, delayed and impeded the full measure of justice which I had every reason to expect from the more enlightened and just Government of the Cortes, which that revolution has now restored to Spain. I nevertheless pressed for a settlement with all the diligence that the magnitude of the claim and my necessities justified and required; and, as soon as its definitive and official recognition, in the form of the certificate just mentioned, was communicated to me by the Minister of Finance, I petitioned the Cortes to order its immediate payment, and to designate the mode of payment. I could obtain no definitive resolution from the Cortes till the 5th October last, the day they decided in favor of ratifying the treaty for the cession of the Floridas to the United States; upon which occasion they ordered that my memorial should be united with the papers relative to the treaty, and submitted to the King, in order to have it ascertained whether the American Government had consented to the introduction of my individual claim into the negotiations on the treaty; and, if so, that the American Government had distinctly assumed upon itself the payment of my claim, and had wholly exonerated Spain from it; but, if it should be found that my case had not been taken into view by the negotiators, and was not distinctly understood as embraced in the treaty stipulations, they, in that case, decreed the immediate payment of the debt by the Spanish Government. Upon this reference from the Cortes, the Spanish Minister of State pronounced an unequivocal opinion that the debt had been distinctly and specifically assumed by the United States, in exoneration of Spain, or would be so upon the exchange of ratifications; consequently, I was referred to the eventual ratification of the treaty for the ultimate satisfaction of my claim. The opinion of the Minister was founded (as I was informed from high authority) upon facts said to have been notorious to the negotiators of the treaty, and verified, as it was said, by the official communications of Mr. Onís to the Spanish Government, to wit, that my claim had been introduced by name into the discussions between Mr. Adams and Mr. Onís, who finally agreed, in their *verbal conferences*, that it should be assumed and paid by the United States; that Mr. Onís proposed the insertion of my name, and a specific stipulation to that effect in the treaty, but that Mr. Adams thought it unnecessary to do so, though he agreed to the insertion of a clause intended to comprehend my case without naming it, and to exonerate Spain from the debt, with the understanding, nevertheless, that it was

to be specifically assumed and paid by the United States. The clause alluded to as the one intended to embrace my claim is the *fifth* of the renunciations declared on the part of the United States in the ninth article of the treaty.

From an examination of the three documents—the protocol of the treaty as delivered by Mr. Onís, the counter-project of Mr. Adams, and the treaty as it was actually concluded and signed, so much is certain and evident, that the protocol contains a clause nearly equivalent to the one in question, which is entirely omitted in the counter-project; and so it becomes highly probable that it was inserted in the treaty in consequence of some new arrangement or substantive understanding, discussed and adjusted in the latter stages of the negotiation. What were the nature and extent of such arrangement or understanding, and of the preliminary discussions which led to it, and whether Mr. Onís had made an accurate report of them in his alleged communications to his own Government, are matters of which you, sir, must have far more authentic and certain information than any I can pretend to offer. If the fifth renunciation on the part of the United States were, in fact, designed to extend beyond such claims as arose out of injuries and aggressions in which the nation, in its sovereign capacity, was immediately concerned, and for which it might, conformably to the law and usage of nations, have claimed restitution and indemnity under the peril of reprisals; and if, in truth, it were intended to reach and comprehend claims arising out of civil contracts—in other words, *bona fide* debts due from the Spanish Government to private citizens of the United States—then it is perfectly clear that the sweeping terms of the stipulation are broad enough to embrace my identical claim; and it is equally clear and certain that it was the identical claim (if not the sole and only one of the kind) intended to be so embraced. It may, therefore, be conceded that the Spanish Government, so far, was warranted in concluding that they were to be as effectually exonerated and discharged from their debt to me as if it had been mentioned by name in the treaty; and their corollary, that the United States would then be bound to pay and satisfy that debt without defalcation or delay, was surely a very natural one, and as surely founded in the soundest principles as well of the moral as of the conventional law.

I have, however, positively denied and formally protested against one of the postulates assumed by the Spanish Government, which is, that any stipulation of the United States could be competent, *per se*, to cancel the debt, and exonerate Spain from her original and inherent obligation, in any other way than by actually paying the debt to me. Not that I have ever been in the least averse from accepting the United States for my debtor in lieu of Spain; on the contrary, if the undertaking of the United States were co-extensive in point of legal and moral obligation with that of Spain, so that the existing pecuniary debt of the one, with all its concomitant duties, becomes identically the debt of the other, I should then



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most willingly accede to the proposed transposition of the indebted party. But it is precisely on this point that the most alarming ambiguity exists; for, if this particular debt be embraced by the terms of the fifth renunciation on the part of the United States, and was so intended by the negotiators, then there is no distinct and substantive provision for the payment of it, unless the official report, alleged to have been made by Mr. Onís, of a verbal arrangement and understanding on the subject between him and Mr. Adams, and not fully expressed on the face of the treaty, should be distinctly and formally recognised by this Government. The terms of the treaty, taken simply and strictly, without being interpreted by any such supplemental arrangement or understanding, clearly import that all the claims embraced by all the five renunciations on the part of the United States are to be thrown into one heterogeneous mass, and placed on the same level, and subject to the same rule of compensation; whereas nothing could be more unjust and injurious than such an operation in regard to my claim; because nothing can be more dissimilar in their nature, in their origin, and in all their circumstances, and nothing more unequal in the cogency of the legal and moral obligations out of which they arise, than my claim, and the mass of others with which it is apparently confounded.

The broad distinction, in all their moral and political consequences and relations, between a mere debt voluntarily contracted by a State in the ordinary transactions of business with a private person, whether citizen or foreigner, and a claim for unascertained damages on account of injuries to private property, involved and bound up in national injuries, is manifest and universally admitted. Depredations upon the commerce, aggressions upon the flag, either of the military or commercial marine of a nation, equally with invasions of its territory, are always considered and treated as direct aggressions upon the sovereignty of the nation, and equally to be resented and repelled as acts of hostility, if a reasonable satisfaction be not made. All forcible and violent seizures, at sea or upon land, of the persons or property of private citizens, partake of the same character of hostility, and, according to the various degrees of the offence, may give just cause for reprisals. When the State is injured or insulted in the persons of its citizens, if the aggression be manifestly and flagrantly unjust, the State is bound by its correlative duties to its citizens, whilst it avenges its own wrongs, or, by peaceable means, vindicates the violated rights of its sovereignty, to demand just reparation for the injuries inflicted on its citizens. In all these cases, however, the compensations for the private injuries, equally with the satisfactions for the public wrongs, must necessarily be fair subjects of compromise and mutual accommodation. The offended State is not bound, nor has it any right, to set up its own judgment as paramount and infallible, and to insist upon the *summum jus*, according to that judgment; otherwise, disputes and wars would be interminable. These compromises between States, both of the

public wrongs and of the private injuries involved in them, are of necessity, and agreeable to the universal usage of civilized nations; but that a mere failure in contract, on the part of one State towards a private citizen of another, should be treated as a violation of the high rights of sovereignty, so as either to justify reprisals, or to give occasion for any of those compromises or mutual concessions usually incident to a treaty of pacification, would be an assumption as absolutely destitute of any countenance from precedent as from any of the analogies of public law.

From the following comparison of my actual condition, as an acknowledged creditor of Spain, having a present and perfect right to demand instant payment, with that to which I should be reduced as a deferred claimant of a precarious dividend under the eleventh article of the treaty, there will appear abundant cause for my anxiety, and for my having protested to the Spanish Government, as I now do to this, against the competency of the treaty, either to operate the release, without providing for the payment of the debt, or to annex to its transposition such interpolations upon the terms of the original obligation as the letter of the said eleventh article would seem to imply.

I have shown what procrastinations, what long, wearisome, and expensive solicitations and investigations I have had to wade through; and what sacrifices of my time, my means, and my comforts, I have had to endure, in order to have my claim definitively and conclusively adjusted, ascertained, and settled, by the only party connected with me in the contract, or responsible to me under it, by a party in all respects competent to take upon himself the most perfect obligation. After I have surmounted every difficulty, and have at last conclusively fixed upon this party a consummate obligation to pay me an ascertained sum of money, instant; upon what terms and for what equivalents am I called upon to renounce or to transpose this perfect right? Why, if the ostensible stipulations of the treaty, as defined in the eleventh article, are to be strictly taken as the only rule for determining the equivalents, then what is now an ascertained debt, standing upon the basis of a consummate obligation, is reduced to a mere outstanding claim, open to fresh and reiterated contestations from unknown parties, from intermeddling strangers without privity or interest in the original contract, or any motive for engaging in the controversy but an eager emulation for the apportionment of the very inadequate sum set apart for the satisfaction of all the claims. It is to be re-examined and adjudicated over again by a new commission, which may not, and probably will not, be closed in less than a period of three years, commencing from some undefined point of time hereafter, viz: the meeting of the commissioners in Washington; and which, if it decide, as possibly it may, to investigate over again the merits and details of my claim, will have to invoke documentary evidence from the bureaux of a foreign country peculiarly tenacious of its archives. Now, suppose the claim, as it stands adjudicated by the

Spanish authorities, to be affirmed by the American commissioners; then, instead of a present right to demand payment of the whole sum, without defalcation or delay, from a party abundantly solvent and of presumed good faith—a party not yet declared bankrupt, either in character or circumstances—I am to wait for a contingent quota or dividend out of the gross sum set apart for the satisfaction, *pro rata*, of the entire mass of claims; and even that quota cannot be ascertained and declared until the whole of the claims are finally adjudicated, within the aforesaid period of three years. Lastly, this tedious process being accomplished, and the commission *fructus officio*; all the claims being definitively adjusted, and the respective quotas ascertained and declared; even then, the mode and the time of payment are left at the absolute discretion of Congress, viz: first, immediately at the Treasury; or, secondly, in six per cent. stock, payable out of the proceeds from the sales of public lands in the ceded territory; or, lastly, in such other manner as Congress may prescribe by law.

I beg leave to advert, very cursorily, to the principles of public law and of natural justice upon which I have founded my protest against the assumed power so to dispose of my rights of property, if, indeed, contrary to my best hopes and expectations, any such power was ever to be exerted in the case.

All debts, both public and private, are universally held, among civilized nations, as a species of property more sacred and inviolable than any other. This principle seems to have been peculiarly acceptable to the moral sense of the people of the United States. The constitution, whilst it leaves to the several States the discretionary rights of sovereignty over the ordinary property of their citizens, expressly prohibits them from making any thing but gold and silver coin a tender in payment of debts, and from passing any law impairing the obligation of contracts—a clause which, in its established construction and practical effect, has been held to annul all State laws professing, under any pretext, to discharge debtors from the obligation of their debts. By the treaty of 1794 with England, all debts, both public and private, are to be held absolutely inviolate in case of war between the two nations, while every other species of property is left exposed to belligerent confiscation and reprisals. That clause of the treaty is further remarkable for its clear and emphatic enunciation of the abstract principles of national morality and good faith upon which the stipulation is founded. Since the benign and prevailing influence of these principles has been able to relax the iron grasp of war, I cannot doubt their sovereign efficacy in that temperate state of the body politic when its passions or necessities claim no prescriptive charter to consecrate force and vengeance on the altars of justice and mercy. With respect to private property in general, the power of the sovereign to cede or dispose of it without the consent of the owner has been held to result from the various modifications of that high prerogative of majesty supposed to be vested in abso-

lute princes, and by some jurists and writers on public law styled the *eminent domain*; by virtue of which, in its pure, unmodified state, all property is theoretically supposed to be enjoyed by the citizens under the tacit condition of being resumed by the sovereign when the necessities or the safety of the State shall require it. It is agreed, however, by all the most approved expounders of the laws of nature and nations, that this right of ceding private property, in virtue of the eminent domain, is restrained within certain rules, founded in natural justice, which cannot be transgressed by any State that is civilized and governed by laws, no matter how absolute the form of government in other respects. In the first place, it is lawful only upon occasions of the highest State necessity and for the public safety; and, in that case, full compensation must be made to the owner; for which purpose, if the ordinary revenue of the State be inadequate, the deficiency must be made up by contributions from all the citizens. The power to cancel debts, under any circumstances, is treated as one of the most questionable and pernicious results of the eminent domain, and, of course, cannot be justified by any inferior necessity than what is requisite to give validity to cessions of other property. It is no ordinary conjuncture, no inducement of mere expediency or convenience, no bargaining or compromising for the settlement of disputed limits or of indemnities for injuries; it is nothing, in short, but an imperious political necessity and an indispensable regard to the common safety that can justify even an absolute prince in bartering away, by a treaty of cession, the private property of the citizen, and then only upon the condition of making full compensation. Indeed, no treaty can well be brought within these rules but a treaty of peace for the conclusion of some destructive war menacing extreme danger to the State, and for the termination of which cessions of private property had, in some way, become necessary. If, by the common consent of mankind, an absolute monarch cannot transgress these wholesome regulations of the eminent domain without the stigma of a lawless violator of public faith, far less admissible would be the supposition that the Government of the United States could ever have aimed at any more unlimited prerogative. Indeed, so little do the assumed privileges of this eminent domain accord with the theory of our Government, and the known and defined origin and limits of its powers, as to have raised no inconsiderable doubt of the expediency of that amendment to the Constitution which forbids the taking of private property for public use without just compensation, apprehending that it was calculated to extend, by implication, rather than to limit the specific powers of the General Government; since, without the aid of such implication, the power to take private property for public use, upon any terms, might not have been inferred. However that be, it is certain that the practice of the Government has strictly and invariably conformed (unless this treaty shall so be interpreted and executed as to establish a solitary exception) to that great princi-

ple of universal ethics and public law so distinctly recognised and imperatively enjoined by the Constitution; for, upon all the occasions when the prerogative of taking private property for public use has been exerted, (and it has been exerted only in cases of the highest necessity, and for the public safety,) full compensation has invariably been made to the citizen. Witness the numerous instances of the last war—a war of invasion and devastation—in which it became necessary, occasionally, to take military occupation of private houses, which caused their destruction; or to burn bridges, and otherwise use or destroy private property, for the advancement of military operations: in every case the proprietor has been compensated to the full value of the property lost.\*

I need not institute any comparison between that sort of necessity contemplated by the great expounders of public law, when they undertakè to define the rightful limits of the eminent domain, and that necessity created by the motives of profit or convenience, which operated in the present instance; nor any inquiry into the authority of the Government of the United States, by mere dint of power, to release a claim under the circumstances of mine, namely, a debt due from a foreign State, upon a contract not made within the jurisdiction nor under the legal sanctions of the United States, of which they had no privity or control but what may have resulted from the mere circumstance of the creditor's being a citizen, sojourning and carrying on trade in foreign parts. All that can be required to make out my case is this brief and simple state of it: my property, to the value of near half a million, is taken to pay for the Floridas. Then, upon any principle of public law, or of a constitutional bill of rights, what is there to cast the shadow of a doubt over my claim to be compensated and reimbursed that instant the cession of the Floridas is consummated?

The history of the negotiation, through all the stages of its progress, whereof any monuments are extant, infers an intent entirely conformable to the legal and moral obligations (such as I have endeavored to expound them) of the high contracting parties. Upon the great question of adjusting the equivalents for the long desired, anxiously expected, and all-important cession of the Floridas, it has already been shown how material a term in the calculations of the parties, and how much discussed, was that of exonerating Spain from her debt to me: being first demanded by Mr. Onís, as appears by his protocol; at first refused by Mr. Adams, as appears by his counter-project; still insisted on by Mr. Onís; at length conceded by Mr. Adams; and, accordingly, the fifth renunciation, framed purposely to embrace that specific object, was admitted in the treaty. There is one other circumstance, however, of itself, conclusive to expound the genuine intent of the parties at that stage of the transaction. It is this: in the counter-project of Mr. Adams, the gross sum of \$5,000,000

is designated for the aggregate satisfaction of all the claims proposed to be renounced by that instrument; which, be it remembered, did not include mine, or any of the like description; yet, after the fifth renunciation (including my claim, and every other of the like description, and enhancing by so much the price of the cession, comes to be inserted) nothing more is appropriated by the treaty for private indemnities than the same identical \$5,000,000. Thus the sum of compensation remains precisely the same; whilst the sum of claims to be compensated is so materially increased, by the addition of this entirely new description of claims to the list of renunciations. This fact alone imperatively demands the hypothesis of an implicit understanding between the parties that the satisfaction of my claim was to be substantively provided for, apart from the others renounced by the treaty; otherwise, we have a paradox equally perplexing to the casuist, the arithmetician, and the jurist; namely, that the price to be received by the vender may be increased *ad infinitum*, without adding any thing to the price to be paid by the vendee.

If the report said to have been made by Mr. Onís to his Government, corroborated as it is by so many circumstances, should encounter no emphatic contradiction from any quarter which we are bound to consider as more authentic, it must be taken as a concession that the debt was to be fully and absolutely assumed by the United States: and so the case becomes clear and intelligible, and the whole proceeding fair and just. Nothing then remains but to clear it from all ambiguity, by distinct recognitions in the act of ratification, and in the appropriations for carrying the treaty into effect.

But, suppose it turn out that no verbal or implicit arrangement or understanding, supplemental to the letter of the treaty, can be admitted; still there is no essential difference in the right of the case; for it is clear the debt is embraced by the sweeping terms of the fifth renunciation, and was intended to be so: then the United States have stipulated absolutely to cancel the debt and exonerate Spain, and must, at all events, perform that stipulation. How is it to be performed? Why, there is but one just and rightful way, which is, simply, to pay the debt. It signifies nothing to say the treaty designates the mode and the extent in which the debt shall be compensated, and binds the United States to nothing more; because, I answer conclusively, first, the act is yet *in fieri*; and the precise question is, how shall it be consummated? Whether in conformity, or in direct opposition to principles consecrated by public law, by the Constitution, and by the faith of nations; and, secondly, when consummated, it is *res inter alias acta*; it concludes the high contracting parties as to all that it stipulates for the benefit of either; but as to any stipulation volunteered for or against him who was neither party nor privy, and whose particular claim was not necessarily involved or committed in the negotiation, it concludes not him; he is perfectly free to accept it, if it be for his benefit, or to renounce it, if it be otherwise. I maintain that Spain cannot be exonerated; the debt cannot be cancelled until it

\* For the rule of indemnity to individuals for losses by war, vide Grot. De Jure Bel. et Pa. 3, 20, § 8; Puf. 8, 5, § 7; Vat. 3, 15, § 232.

Spain—Richard W. Meade.

is paid, either by Spain herself, or by some guarantee for her. Until then, it subsists, *de jure*, in as full force after as before the ratification of the treaty; and unless it be distinctly pronounced by the terms of the ratification that the United States are to be made the guarantee, I shall not cease to urge Spain for payment, by all the sacred and inviolable ties of national faith and honor, and to avail myself of all the legal remedies that her tribunals are competent to entertain. Then, would not a clear right result to Spain to come upon the United States for indemnity, under the stipulation which obliges them to cancel the debt and exonerate Spain? That stipulation is not made to depend upon the condition of my accepting this or that equivalent, but is absolute; and if the United States cannot have the debt cancelled, and Spain exonerated, in the way most agreeable to themselves, it is their business to devise an adequate mode; but, at all events, their duty to exonerate Spain. So long as the obligation, legal or moral, of Spain, is permitted to continue in force, though there be no adequate remedy for coercing her to payment, still, if one *scintilla juris* be left unextinguished, she cannot be said to be exonerated in any sense of the term; her appeal to the yet untarnished faith of the United States could not be resisted. Thus, the United States, by taking the direct course of paying the debt to me, do nothing more than strictly fulfil a clear and unconditional stipulation with Spain. In no other way can it be fulfilled; and no better can be desired. The only alternative is an arbitrary invasion of private right, and a very ambiguous implication of the faith of treaties.

I would also submit, with great deference, that the circumstances of this transaction have given me a strong claim to the equitable consideration of the Government. In the purchase of the Floridas, my property has been freely used, and every advantage has been derived from it, just as if it had been committed to the negotiation by the most valid assignment. Now, whether the stipulation to cancel the debt and exonerate Spain be effectual or not, yet, in fact, that stipulation has supplied to Spain an apology, a pretext, and a color of right, to deny or evade the payment of a debt, otherwise acknowledged under circumstances of such persuasive and cogent equity as to have made the prompt payment of it necessary and inevitable. I need not remark how notorious it is that, with sovereigns, who are amenable only to the *ultima ratio*, an apology, a pretext, or a color of right, is too often equivalent to a legal defence or plea in bar in disputes between private persons amenable to the ordinary process of law. I can truly say that, under my present circumstances, with all my means and resources absorbed and bound up in this large debt, the delay is little less than the denial of justice.

In every possible view that can be taken of the case, as regards the question either of strict right or of equitable discretion, I humbly submit whether it be not obviously just and expedient for the Senate to annex to the ratification of the treaty, by way of rider, a distinct recognition of my claim,

so that it may be specifically provided for amongst the appropriations necessary to carry the treaty into effect. But if, for any reason, it be decided that the debt shall not be assumed by the United States, then I think there is one act of justice I may boldly presume to ask, without fear or hesitation; and that is, to have the fifth renunciation distinctly excepted from the ratification, and expunged from the treaty, or, at least, to have my claim excepted from it by name. I shall then be left free to prosecute it where it is unquestionably due, unembarrassed with the imposing renunciation of my country. I have the most assured confidence that Spain, when her moral sense and good faith are no longer perplexed by the salvo of that renunciation, cannot resist one moment my instances for an immediate liquidation of the debt. In all events, it is my clear and decided election to abide the issue of an appeal to the moral sense and good faith of that nation, rather than the chances of that contingent and long-deferred indemnity provided for the other claims, into whose company mine has been introduced by the treaty, though introduced as casual acquaintances merely, and not, I hope, with any view to force them into a loathed and unnatural union.

For the freedom, and probably the superfluous elaboration, with which I have thus claimed your attention to the facts and the principles upon which my rights are asserted, I have no apology but my deep interest in the consequences of the public act about to become the subject of executive and legislative deliberation. Indeed, if an individual interest were at stake, of far less import than the fruits of a life of honest enterprise and active exertion, in the preservation of which the inestimable blessings of personal independence and the comfortable existence of a large family are involved, I should do injustice equally to the spirit of our institutions and the character of the Government, if I thought it necessary to deprecate censure or offence for a respectful and well-founded remonstrance against the effect of any public act, consummate or intended, upon my private rights. The implicit confidence, so absolutely due to the Government collectively, would be most unjustly withheld, sir, from any department of it under your exclusive administration. I therefore repose myself with an unlimited trust in the habitual equity of your mind, when I defer to your judgment and discretion that disposition of this memorial which may give me the benefit of the facts and reasons it advances, wherever the authority resides to administer the proper remedy.

With the profoundest sentiments of respect, I remain your much obliged and grateful fellow-citizen,

RICHARD W. MEADE.

To the PRESIDENT of the U. STATES.

#### NOTES.

"Every thing in the political society ought to tend to the good of the community; and if even the citizen's person is subject to this rule, his fortune cannot be excepted. The State cannot subsist, or constantly administer public affairs in the most advantageous

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manner, if it has not the power of disposing, on occasion, of all kinds of goods subject to its authority. It may even be presumed that, when the nation takes possession of a country, the property of certain things is only allowed to individuals, with this reserve. The right which belonged to the society, or to the sovereign, of disposing, in case of necessity, and for the public safety, of all the wealth contained in the State, is called the "eminent domain." It is evident that this right is, in certain cases, necessary to him who governs; and, consequently, is a part of the empire, or sovereign power, and ought to be placed in the number of the prerogatives of majesty. When, therefore, the people submit the empire to any one, they at the same time yield to him the eminent domain—at least, if it is not expressly reserved. Every Prince who is truly a sovereign is invested with this right, in the same manner that his authority is limited in other respects.

"If the nation disposes of the public property, in virtue of his eminent domain, the alienation is valid, &c."

"When he disposes, in like manner, in a case of necessity, of the possessions of a community, or of an individual, the alienation will be valid for the same reason. But justice demands that this community, or this individual, be recompensed out of the public money; and, if the treasury is not able to pay it, all the citizens are obliged to contribute to it," &c.—*Vat. b. 1, ch. 20, sec. 244.*

"The necessity of making a peace authorizes the sovereign to dispose of things even belonging to private persons; and the eminent domain gives him this right. In some degree, by virtue of the power which he has over all his subjects, he may dispose of their persons. But these cessions being made for the common advantage, the State is to indemnify the citizens who are sufferers by them."—*Vat. b. 4, ch. 2, sec. 12.*

"The promises, the conventions, all the private contracts of the sovereign, are naturally subject to the same rules as those of private persons. If there arise any difficulty, it is equally conformable to prudence, to the delicacy of a sentiment that ought to be particularly conspicuous in a sovereign, and to the love of justice, to cause it to be decided by the tribunals of the State. This is the practice of all the States that are civilized and governed by laws."

The author next treats of the conventions and contracts made by the sovereign, in his quality of sovereign, and in the name of the State, with private persons, either subjects or foreigners, and of the manner of deciding controversies arising from such contracts; and he then proceeds as follows:

"Authors add that the sovereign may cancel these contracts if he finds they are contrary to the public welfare. He may doubtless do it, though not from any reason taken from the particular nature of these contracts, but either from the same reason that renders even a public treaty invalid when it is fatal to the State and contrary to the public safety, or in virtue of the eminent domain, which gives the sovereign a right to dispose of the property of the citizens with a view to the common safety. We speak here of an absolute sovereign."

"The conductor of the nation may have his private affairs, and his particular debts; these kinds of debts he is obliged to pay out of his own private fortune. What he borrows for the service of the State, the debts contracted in the administration of public affairs, are

contracts of strict right, obligatory upon the State and the whole nation. Nothing can dispense with the discharging of these debts. As soon as they have been contracted by a lawful power, the right of the creditor is not to be shaken," &c.—*Vat. b. 2, ch. 14, sec. 213, 214, 216.*

For a further development and various illustrations of the doctrine, vide *Grot. De Ju. Bel. et Pa. 1, 1, sec. 6. Id. 2, 14, sec. 7. Id. 3, 8, sec. 4, (3.) Id. 3, 20, sects. 7, 8, 16. Puf. 8, 3, sec. 23, n. (11.) Id. 5, sec. 7. Id. 6, sects. 19, 20. Id. 8, sec. 3. Id. 10, sec. 7. Id. 12, sec. 2. Hub. De Ju. Civ. 1, 3, 6, 44. Bynk. Q. J. P. 2, 15, p. 290. Turnbull's Heinec. 2, 8, sects. 116–170. Burl. 3, 5, sects. 25–29.*

### REMONSTRANCE AGAINST AN INCREASE OF DUTIES ON IMPORTS.

[Communicated to the Senate, Nov. 21, 1820.]

At a meeting of the citizens of Petersburg, Va., convened at the court-house, Friday, 17th November, 1820, to receive the report of the committee appointed to prepare a memorial to Congress in opposition to the tariff bill, Thomas Wallace, Mayor, was appointed chairman, and John F. May, secretary.

The committee presented the following memorial, which was read and unanimously agreed to.

*Resolved.* That one copy be transmitted to James Barbour and James Pleasants, Senators from this State, and one to Doctor James Jones, the Representative from this district in the Congress of the United States.

*The memorial of the merchants and other inhabitants of Petersburg, Va., respectfully sheweth:*

That your memorialists are deeply impressed with the ruinous tendency of the restrictive system of commerce advocated by an association styling themselves the friends of national industry, and fully convinced that the tariff bill, presented at their suggestion, during the last session of Congress, and intended to be again brought forward at the present session, if passed, will prove highly detrimental to the commercial and agricultural interests of the nation and to our revenue, already reduced to comparative insignificance by the operation of the same system, whilst no advantages can be expected to result from the bill, in any degree counterbalancing the inevitable evils of the measure.

We believe that the prosperity and independence of nations, as of individuals, are essentially connected with an unrestricted state of commerce, securing to each the liberty of selling in the dearest market the produce of his industry, and buying in the cheapest such articles as his necessities demand.

National prosperity and national independence we consider as nothing but the aggregate of individual prosperity and independence. If individuals, restricted to a particular market for the sale of their produce and purchase of necessities, would feel their prosperity and independence abridged, we cannot conceive how nations, where

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every individual is restricted on the same points, should believe their independence and prosperity promoted by those very restrictions.

The idea of forcing a people to manufacture among themselves articles which they can purchase abroad at a much lower price than they can produce them at home, we conceive to be equally repugnant to justice, to policy, and to the principles of our Constitution. Such a scheme can be carried into effect only by taxing the many for the emolument of the few; by forcing multitudes from the occupations to which they have been bred, and in which they have thriven, to expend their labor and risk their capitals in projects where they have neither knowledge nor experience to guide them. The powers necessary to execute such measures we consider as too despotic to have been delegated by the American people to their Government, and such as we cannot suspect our representatives of wishing to assume, by the instrumentality of inference or construction.

The doctrine inculcated by the friends of the prohibitory system, that a nation, to accumulate wealth by commerce, must import less than it exports, is certainly erroneous. Capital exchanged for a more valuable consideration is not lost; that the importer gains, we must presume, since he desires the exchange; that the consumer gains, there can be no doubt, so long as he can procure necessities at less expense from the importing merchant than from the home manufacturer. A few great capitalists only are disappointed. On the whole, it appears to us that the product of our exports cannot in any way be so profitably invested as in the form of imports.

The advantages of a free trade are fully demonstrated in the commercial history of the nations of Europe, from the unexampled prosperity of the Hanse Towns, under the influence of an unrestricted system of commerce, to the commercial ruin of Great Britain, under the most complete prohibitory system that has ever been devised.

In the history of this latter nation, we learn, too, that manufactures cannot be always forced; for, with all her industry, perseverance, and ingenuity, there are certain manufactures she has not been able to force to sufficient perfection to support themselves. We learn, also, that those branches of commerce, fisheries, &c., with which her Legislature has interfered the most, have generally been unproductive, and that nearly in the proportion of the fostering care extended to them; and we learn a still more instructive lesson, that a nation may become so deeply involved in the protective system, as to be unable to extricate herself, though aware of the ruin to which it leads.

The obvious tendency of this system is to destroy foreign commerce, by prohibiting our merchants from importing the products of other countries in return for the exports of ours; thus provoking them to retaliate on us as they have already done on Great Britain, by refusing to receive our produce except on such terms as we cannot afford to export it. With the destruction of foreign commerce, we expect not only the ruin of those immediately engaged in imports and ex-

ports, in the carrying trade, ship building, &c., but of almost every individual directly or indirectly concerned in commercial affairs. Nor can the fate of the agricultural interest be long protracted under the operation of such a system. Loaded with heavy internal taxes, imposed to supply the defect of the revenue formerly drawn from foreign commerce; compelled to pay double or treble prices for every necessary they purchase; excluded from a market for the produce of their own labor, the landholders must sink into poverty and insignificance. Our seamen, for want of employment at home, must emigrate to commercial countries, or resort to smuggling and piracy for support; our navy rot in our docks; our fisheries and coasting trade be left to the mercy of every invader.

How incapable a nation without foreign commerce is of protecting her coasting trade, China, the most populous country under the sun, taxed or plundered by every piratical islander on her coast, affords an impressive example.

Those who expect a home market from the establishment of manufactures can neither have calculated how many manufacturers one agriculturist can feed, nor how immense an addition to the products of our soil and the number of its cultivators half a century of unrestricted agricultural enterprise will make, by clearing the rich and extensive forests of our back country, now lying useless.

The evils of the prohibitory system are obvious, universal, and highly oppressive; its advantages limited to a few great capitalists; the ostensible reason for its introduction wholly unfounded, for our manufactures are already most amply protected; an average duty of about twenty-five per cent. on imports already exists in their favor. Freight, insurance, double commission, storage, and sundry other charges incident to shipping and transporting foreign manufactures to this country, operate as a further bounty of at least fifteen per cent. The British artisan, the most formidable rival in every market, is taxed to the amount of one-third of the whole produce of his labor; this, too, operates as a bounty of thirty-three and a third per cent. in favor of the American competitor. If we add to this the increased value of money in this country, we may confidently assert that the advantages in favor of the American manufacturer amount to upwards of one hundred per cent.

When we find that the protective system, carried to this enormous extent, instead of producing a commensurate energy on the part of our manufacturers, has produced only louder cries for still more inordinate concessions, it is time for us to pause and consider whether the revenue wasted on this unthrifty scheme could not have been expended on something more productive.

With this view of the subject, your memorialists respectfully solicit your honorable Houses, that, instead of embracing the ruinous system recommended in the tariff bill presented at your last session, you may adopt such measures as your wisdom may suggest for disembarassing our trade

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from all restraints incompatible with the increase of our revenue, and the promotion of commercial and agricultural enterprise.

THOS. WALLACE, *Chairman.*

J. F. MAY, *Secretary.*

## MEMORIAL FROM MAINE.

*To the honorable the Senate and the honorable the House of Representatives of the United States of America in Congress assembled :*

The memorial of the delegates from the commercial and agricultural sections of the State of Maine, met in convention at Portland, in behalf of the great interests of this portion of the Union, beg leave respectfully to make known to your honorable body their views and sentiments in relation to the propositions made at the last session of Congress, and which, it is understood, will be renewed at the approaching session, in relation to the national revenue.

Maine is more deeply interested, in proportion to its population, in the commercial prosperity of the Union, than any other of the States. Its tonnage has been proportionally greater, and its facilities for navigation, its rivers, bays, and harbors, its opportunities for carrying on the fisheries, its immense forests of exportable lumber and ship timber, are unequalled. A vast portion of the population are devoted and habituated to commerce, to navigation, and the fisheries. Maine is, at the same time, calculated to become an agricultural State, and will be the first grazing country in America.

Under these circumstances, your memorialists cannot but feel the deepest solicitude for the prosperity of the commerce of the country. They believe, at the same time, that the vital interests of the Union depend upon it. The Federal Government was ushered into existence with almost a single eye to it. The revenue is, and must be, essentially connected with it. It has, heretofore, been believed that experience afforded the best school. In politics it has been pre-eminently so; can it be said to have failed us in regard to the commerce of the United States?

If we turn our eye to the period anterior to the commencement of the Federal Government, and compare the situation of this country with that of any period since, the contrast is immense. By what other means than imposts, growing out of a judicious regulation of commerce, could we have collected, in the short space of thirty years, three hundred and fifty millions of revenue, with but little, or indeed, comparatively, with no distress to the people, and in a manner scarcely felt or perceived by them? What distress, perplexity, and vexation, would have attended the collection of such a sum by direct taxation?

We have had some little experience of the effects of this mode of raising a revenue. It is what the people in a free Government will not endure, if not unavoidable.

Your memorialists conceive that the present is not the time for a great and embarrassing change in relation to commerce. Those connected with

it have for years been struggling against a series of untoward events, such as it could hardly be believed could be withstood. The restrictive system fell upon them with great force.

The war succeeded, and very nearly accomplished that portion of their ruin which had not before been effected. At the conclusion of peace, crippled as they were, their only alternative was to attempt to regain their hold upon commerce, in competition with a state of things as novel as it was embarrassing. They found all the world also at peace, and ready and determined, in a commercial warfare, to dispute every inch of ground. In this contest the commercial men of this country have been ever since engaged. It is impossible the wisdom of Congress should not have discerned the arduousness of this struggle. And it will not escape observation, at the same time, that, in the five years which it has progressed, more than one hundred millions of dollars of revenue have been derived from commerce alone. Your memorialists are fully aware that the community, generally, have felt the effects of the distress and embarrassment to which the mercantile class has been subjected. Whatever affects commerce will affect the community.

But the disease is necessarily the most acute and raging in the part where it first commences. Other parts of the system will, however, ultimately feel it in a greater or less degree. Commerce is the great pillar in the temple of national prosperity; that being demolished, the superstructure will follow.

Even the present rate of duties upon importation is embarrassing to commerce and injurious to the revenue. It was the result of a state of things which had been induced by the restrictive system and the war. During that period manufactures had experienced a premature and unnatural growth. At the conclusion of the war the Government was compelled to protect them by the imposition of duties, well known at the time to be injurious to the revenue, and adding to the already appalling prospects of the merchant. The duties in many instances were so great as to amount to an exclusion of the article. This was the case particularly with coarse India cottons, an article of which the poorer classes made great use; and the imposition is, in effect, a tax upon them for the benefit of the manufacturer of coarse cottons. The tax or duty on these articles amounts to an average of one hundred per cent., thereby doubling the price of the article to the poor, to enable the manufacturer here to sell at a similar rate.

There are duties imposed on other articles to an exorbitant amount, which have tended to depress the commerce, the revenue, and the agriculture of the country. An enormous duty has been imposed upon spirits of all kinds and upon wines, under the idea that they were luxuries, and with a vain hope, as is believed, of discouraging intemperance. Under the idea of their being luxuries, they should be taxed to the utmost they would bear, without discouraging importation. But the idea of taxing, and thereby checking the disposition to intemperance, will always prove fallacious, so

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long as we allow ardent spirits to be manufactured among ourselves without any check whatever. If the duties on the rum of the West Indies, the brandy of France, and the wines of Portugal and Spain, and the islands appurtenant, had been predicated upon the single principle of raising a revenue, a vast commerce would have been open to the people of this country, which the exorbitant duty now imposed has in a manner cut up by the roots. Formerly, when the duties were less, the grain, which is now manufactured into whiskey, was exported to those countries; and for it the farmer then availed himself of a great price in cash, or the necessities of life. Now, he converts it into whiskey; too great a portion of which he himself is tempted to consume, to the destruction of his health and the ruin of his morals: and thus the benevolent intentions of the Legislature have been wholly frustrated, and a regulation which they intended as a blessing has proved a curse. It has now got to be fashionable in some parts of the Union to say that the production of whiskey must be encouraged, and for that purpose that all other ardent spirits must be excluded, in order that agriculture may be promoted! How much better it would be to remove from the farmer all temptation to the consumption of ardent spirits, and to furnish him with a better as well as a more salutary vent for his grain!

Your memorialists have not been led to these remarks by any thing like hostility to the manufacturing interests. They are, on the contrary, decidedly in favor of all reasonable encouragement to promote, uphold, and cherish every thing of that kind.

But your memorialists had never dreamed it would ever be considered necessary or proper that all other interests should be made to yield as secondary and tributary to that alone. They are sure this was not the original design of the framers of the Constitution. In that instrument we find nothing about manufactures.

They, however, have pressed into their service an elaborate essay of the celebrated Alexander Hamilton on this subject. They have adopted his principles, but disregard their application. He insisted on the encouragement of manufactures so far as might be consistent with a due regard to commerce and the collection of revenue. The duties now are nearly treble what they were when he wrote, and, on an average, higher by one hundred per cent. than he, in the height of his zeal for manufactures, ever recommended.

In the case of iron, the duty on which was not half what it now is, he recommended a diminution, under an idea that it was almost a raw material, necessary in every kind of mechanism; and the same with regard to molasses, which we could ourselves distil. At the time he wrote it was necessary to urge, with great vehemence, upon the attention of Congress, this subject of encouraging manufactures, in order to have it attended to so far as might be compatible with the other great interests of the community. But he could not have foreseen this abuse and perversion of his reasoning. He never could have imagined that the

time would come when it would be deemed good policy to make the people pay from thirty to one hundred per cent. more for goods to the manufacturer than they might otherwise be bought for of the importing merchant.

Your memorialists believe the duties now imposed on foreign manufactures to be fully adequate to any reasonable demand on the part of the American manufacturer. All the cotton and woollen manufactories which have been providently established and well managed are perfectly satisfied with the present rate of duties. From these we hear no complaint; and they are considerably numerous in the Northern and Eastern States. All such as were established without judgment, without capital, and without the aid of any skill whatever, have, of course, mouldered into ruin. Such it cannot comport with the wisdom or policy of Government to attempt to revive and uphold.

Your memorialists believe that the excitement in favor of manufacturers has had its origin rather in the improvidence and rash enterprise of some of our fellow-citizens than in any well-grounded cause of complaint. It may be that between 1812 and 1815 a state of things existed which induced individuals, in great numbers even, to plunge inconsiderately into extravagant and wild schemes in relation to manufactures. But it does not follow that the Government is, at all hazards, bound to uphold, protect, and save them from ruin.

Every step which the Government might take, under such a supposed obligation, would but increase the evil, and create still new obligations predicated upon a similar unfortunate state of things. The final result would be a state and condition like that of Great Britain.

There, unfortunately, such solicitations in times past have been yielded to; and the nation now stands committed, at whatever cost, to stand by and uphold establishments which it would now gladly shake off. A glaring instance of the folly and stupidity of such engagements was but lately witnessed in that country. The merchants there petitioned for a greater freedom of trade, and complained, among other things, of being obliged to import timber from North America, stating that it could be imported from Norway at half the cost that it could from America. The ship-owners who were engaged in the importation from America preferred a counter petition, stating that since the Government had confined the importations to timber from America, they had been at immense expense in preparing ships to bring the vast quantities from America necessary for the supply of the kingdom; that if the trade of Norway in that article should be opened, no timber could be imported from America; and that one-half of their ships and equipments must be laid aside, as the other half would be adequate to bring the requisite amount from Norway; it being practicable to make two voyages to Norway in the time that would be requisite to perform one to America.

Thus it appeared that a vast quantity of shipping, and sailors in proportion, must be thrown out of employment, and ruined, if the British Government should not continue to compel its



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subjects to buy timber at twice what it would cost elsewhere.

And this is the case with an infinity of other establishments in that country. By the improvident interference of Government, establishments have been reared up and fostered, which they must uphold at every hazard, the faith of Government in this particular having been virtually pledged so to do. There is not a circumstance more alarming to your memorialists than that the manufacturers in this country are continually holding up the conduct of the British Government in this particular as affording the most perfect model for our imitation.

They are delighted with British exclusions, premiums, drawbacks, high and prohibitory duties, and the whole train of extravagant schemes, to retain the power of manufacturing exclusively for themselves, and, if possible, for the world besides.

The situation of this country is in nowise similar to that of Great Britain. We have no surplus population that cannot be retained but by such means. We have vacant territory without limit, and almost without price, inviting cultivation. There, they must manufacture or emigrate. And, notwithstanding the utmost of their exertions to find employment for their laboring poor, every seventh individual is a pauper, and dependent on charity. In this country, as yet, it is not even every hundredth individual that is a subject of charity; and many centuries may elapse before the proportion will be greater, if this manufacturing mania can be kept within bounds.

Your memorialists lament those strides on the part of manufacturers for another and more important reason. Steadiness in governmental regulations affecting the industry of the people is highly essential. There is at present a perfect acquiescence in all parts of the Union in relation to what has been done to favor manufactures, although it bears hard upon the revenue and upon commerce.

The effect of an extraordinary action is to produce reaction. If the manufacturers should now succeed, the consequence will be a deficit in the revenue. A direct tax must ensue; irritation will be produced; and, by the time the manufacturers shall have got their great establishments in operation, a new tariff will be enacted with a view to revenue solely. When the tariff was settled in 1816, the manufacturers were duly represented. The then Secretary of the Treasury was from the city of Philadelphia, and partook, it is believed, of all the feelings of the people upon this subject. At any rate, he recommended the tariff at that time with an express view to manufactures; and his recommendations, so far as they affected manufactures, in every instance, it is understood, except in relation to iron, were implicitly adopted. At that time the manufacturers, excepting those of iron, were perfectly satisfied; and in 1818, at the instance of the manufacturers, the duty on iron was increased from nine to fifteen dollars per ton. They, at the same time, requested that the duty of 25 per cent. on cotton and woollen goods, which had been limited to five

years, might be made perpetual. In this, also, they were gratified. Your memorialists expected to have heard no more from the manufacturers about further protecting duties. But the stride they are now contemplating is, to your memorialists, truly astonishing. Nothing now will satisfy them short of twenty-five dollars per ton upon iron, an article necessary in every piece of mechanism; thirty-five per cent. upon printed books, by way, it may be presumed, of discouraging science; ten cents per gallon on molasses, to protect the distillers of whiskey; thirty-three and a third per cent. upon cotton and woollen goods, and so upon other manufactured articles in proportion; and, to crown all, cash payment, without credit, for duties!

Should the wisdom of your honorable body deem it expedient and proper to yield to solicitations so unreasonable, the commerce of the country must be considered as at an end, and all concerned in it as devoted to inevitable ruin. The long established habits of the country must be subverted, and a shock will be felt in the community such as will arouse from their slumbers the mass of the people, and awaken them in time, but perhaps too late, to a sense of their true interests.

Your memorialists have thus, with the characteristic frankness of fellow-citizens, intimated some of their views and feelings on this all-important subject. Their destinies are in the power of the National Government, on whose wisdom and justice they trust they can rely. It is for Congress to determine whether the great interests of the nation, on which depend its power, its glory, and its resources, shall be sacrificed to the cupidity of a handful of improvident and speculating manufacturers.

Signed by order and in behalf of the convention.  
ARTHUR McLELLAN,  
Chairman.

HENRY CLARKE, Sec'y.  
PORTLAND, October 19, 1820.

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#### INCREASE OF DUTIES ON IMPORTS.

[Communicated to the Senate, November 27, 1820.]

*The memorial of a convention of delegates representing the merchants and others interested in commerce, assembled at Philadelphia, to the Congress of the United States:*

Although much has already been addressed to your honorable body on the subject of the new tariff, yet, unless it could be said to be entirely exhausted, its pre-eminent importance may well claim still further attention from all who are interested, and may be allowed to constitute a valid excuse for those who venture once more to appear before you in the character of petitioners against its adoption.

Among the great diversity of subjects which, from time to time, have occupied our National Legislature, not one, it is believed, within the whole scope of their proceedings, has ever been

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agitated which involves a greater variety of interests, fiscal, moral, and political; which strikes more deeply at the very foundation of all true and enlightened policy; and which, according as it shall be ultimately settled, will be productive of more lasting, more beneficial, or more pernicious consequences. In short, this nation, through its highest public functionaries, is called upon to determine whether we will plunge still deeper into all those measures of prohibition and restrictions upon trade; of duties, premiums, and bounties; of stimulants to rear exclusive interests at the national expense, which have contributed more than any other causes to bring the greatest commercial and manufacturing empire that the world ever saw to the very verge of destruction; or, by taking warning in time, and pursuing a different course, achieve for ourselves a far higher degree of national prosperity than any people, of whom there is any record, have ever before attained. Let it not be said that we are too much inclined to magnify, beyond their just dimensions, the various objects involved in this inquiry; still less let it be said that the injuries or benefits which must necessarily result from the adoption or the rejection of the proposed tariff will not be fully equal, in process of time, to any thing which we have ventured to imagine. If the observation of Doctor Smith has been thought just, that heavy taxes upon necessities become "a curse equal to the barrenness of the soil and the inclemency of the heavens," let it not be thought extravagant in us to assert that the additional duties required of you, of operating continually upon almost all the purchases of every member in the community, although a small and insignificant sum, comparatively speaking, in each individual purchase, would amount, in a few years, to a sufficient number of millions almost entirely to alter the existing relations of society, by forcing capital out of those channels in which it is naturally inclined to flow, and alluring it into others, where, but for this legislative process, it never, perhaps, would have gone. Can this be consonant either to policy or justice? Can such a power be found, either in the constitutions or codes of any free Government upon earth, as would authorize the Legislature of such Government to say to any of the great classes into which society naturally divides itself, "thus far shalt thou go and no farther" in thy fair and honest endeavors to better thy condition? And yet, in what does such a power differ in effect from that by the operation of which any one of these classes may be fostered, cherished, and elevated at the expense of the rest, until the others, who are forced into this most unnatural state, are so ground down as to be compelled to abandon the trade, profession, or calling of their choice? Once admit that Congress may use the power of taxing imports *ad libitum*, for any other purpose than that of revenue, and you give them, in reality, the power to say to the citizens of these United States—you must devote yourselves to agriculture, commerce, or manufactures, not as you may happen to be inclined, but according to our sovereign will and pleasure. Let it never be forgotten that the question now about to

be determined is not so much what may be beneficial to manufacturers, as whether Government has a right to benefit them to the manifest injury both of the agricultural and commercial classes; whether the Constitutional provision against taxing exports can be rendered in a great measure nugatory, by diminishing, at pleasure, the value of our exportable commodities, through the instrumentality of a tax upon imports; and, finally, whether the direction and employment of individual capital are matters to be regulated and controlled by individual choice, or by the will of the National Legislature.

If it be asked who are the rightful judges in regard to the expediency and justice of the proposed tariff, it is surely fair to answer, that the payers, who constitute a very large majority of the whole nation, are certainly more competent to decide than the expectant receivers; when the only inquiry is, how much of the money of the former shall be paid to the latter, and to what extent it shall be taken, not only without their consent, but in opposition both to their entreaties and remonstrances. This is the plain unvarnished state of the case; and, let sophists and casuists disguise it as they may, still, whenever it is contemplated, unadorned by the embellishments of geographical parties, and divested of the exaggerations of exclusive interests, it will be seen as a case where, on the one hand, a certain portion only of manufacturers (for very many of them are opposed to it) are importuning the Government to compel all the commercial and agricultural classes to buy their manufactures at enhanced prices or to go without; whilst, on the other hand, the sons of commerce and agriculture, almost to a man, are begging that they may not be exposed to any such exaction. It is not a boon or treasure, already in possession of the Government, of which each party is praying to have the exclusive enjoyment—for that would be a mere contest of cupidity, wherein both would be alike selfish and culpable; but it is a plain undisguised effort, on the part of certain manufacturers, either to coax or alarm our rulers into the ruinous project of coercing the farmers, planters, artisans, and merchants, into giving a much larger portion of their substance than they at present do to these manufacturers; whilst, on the part of agriculture and commerce, it is an arduous struggle to hold fast only what is already theirs, and not to be forced to part with it contrary to their inclinations. Are we, therefore, enemies to the manufacturers? Are we, consequently, (as has often been said,) selfish, unnatural, antisocial, grovelling, and ignorant, alike deaf to the voice of humanity and to the calls of patriotism? God forbid! But if we have incurred these degrading censures simply for praying that your honorable body will not put it in the power of the manufacturers to make us pay more for all which we must necessarily purchase of them than we do at present, we must still submit to be denounced.

But lest the mere pecuniary loss in our purchases alone, which we should incur from the proposed addition to the duties upon foreign commodities, should be considered the principal cause

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of our solicitude, we beg leave to suggest a few other considerations of far deeper interest, and of still more comprehensive character, that appear to us to forbid the adoption of the proposed measure. If it be a fixed principle that we are to rely for our revenue chiefly upon a system of duties upon imports, can any thing be more obviously necessary and proper than that such system should be both uniform and permanent? Can a single instance be cited, from the annals of any nation upon earth, where an augmentation of duties, already high, has been found to augment the national income? On the contrary, are there not many to be found wherein a diminution of duty has been immediately followed by an increase of revenue? We beg leave to quote only a few, and we will take them from the history of that country whose commercial regulations and restrictions some of our political economists have so earnestly importuned you to imitate. "Previous to 1744, the East India Company's sales of teas amounted to no more than about six hundred thousand pounds weight, annually, producing a revenue of about £140,000. In the early part of 1745 an act was passed by which the tea duties were greatly reduced; and in 1746 the sales amounted to nearly two millions of pounds weight, and the revenue to £228,000. But this unanswerable demonstration of the superior advantages resulting to the revenue itself from low duties, was unable to restrain the rapacity of the Treasury. In 1748 the duties were again increased, and fluctuated between that epoch and 1784 from 64 to 119 per cent. In the last-mentioned year, however, the Government, having in vain tried every other means to prevent the smuggling and adulteration of tea, reduced the duty from 119 to 12½ per cent.; and the revenue, instead of falling off in the proportion of one to ten, owing to the increased consumption only declined in the proportion of one to three. In 1787 the duty on wine and spirits was lowered 50 per cent., but the revenue, notwithstanding, was considerably augmented. The average annual produce of the tax on coffee, for the three years previous to 1808, amounted to £166,000. In the course of that year the duty was reduced from two shillings to seven-pence the hundred weight; and the average annual produce of the reduced duty for the next three years, instead of being diminished, rose to £195,000."

These few remarkable facts serve, incontestably, to prove, more than whole libraries of theoretical reasoning could do, that the financier who calculates upon raising revenue by duties upon imports must, unavoidably, be content to make them moderate, or to lose his object. They also force upon our minds this important question: Whether the deficit which occurred in our revenue last year, and the still greater one which threatens us for the present year, are not both attributable, at least in part, to the very high rates of many of our existing duties?

If the design of the proposed tariff be to force into being certain manufactures which had no previous existence here, or to foster, at the national expense, such as have been found, after sufficient

trial, incapable of being otherwise supported, the hope of revenue from this source must be abandoned; for it is a physical impossibility that the two projects can be consummated together. If manufactures are to be forced, the Treasury coffers must remain empty, for any thing that the tariff can bring into them; on the contrary, if the duties upon imports are to augment the revenue, the manufacturing interest must be content to rely upon her own energies, without calling on Government to make crutches for her of both agriculture and commerce, to support that body which, in the mania of speculation, has been dieted and swelled into an unnatural growth, too unwieldy for her own natural limbs to sustain.

Let us take another view of the subject. If it has become a settled point in our policy that no justifiable means are to be neglected to render this nation a great naval Power, (as essential to the Union as protective of the great and only outlet for all the agricultural products of the immense regions of the West,) it is well worthy of inquiry whether it possibly can be effected by multiplying discouragements to foreign commerce. Can our hardy, magnanimous, and dauntless seamen, whose pursuits have heretofore exposed them to the perils of every ocean, to the vicissitudes of every clime, and inured them to that constant regimen and discipline so well calculated to fit them for all the purposes of nautical life—can such men, with any advantage to our rising navy, be converted into a set of skulking, profligate smugglers, or of sailors confined solely to the coasting trade? Yet, that such must be the inevitable result of either destroying, or much further injuring our foreign commerce, is a consummation which appears to us as unavoidable as that death must follow the destruction of all our vital functions. Commerce is to the body politic what the circulation of the blood is to the body natural; to check either materially, is to produce disease; and to augment such check, in any degree, is to destroy the healthful existence of both. Again: is it possible that we shall add much either to the moral or physical power of this nation by interposing legislative aids to accelerate the natural increase of that class of citizens, who, from the very nature of most of their occupations, must necessarily be brought up in a way which (to say the least of it) is surely not the most favorable either to health, to morals, or to bodily or intellectual vigor? Can it be within the scope of any rational anticipation that our manufacturers, one and all, can ever be made successful competitors to those of Sheffield, Birmingham, and Manchester, who, by means of the very system of which some of us are so exceedingly emulous, are forced to labor from fourteen to seventeen hours in the twenty-four, and to live almost exclusively on vegetable diet, in order to earn a miserable pittance of wages, scarcely sufficient to keep body and soul together? Can any the most sanguine projector calculate on realizing any such successful rivalry, except at an expense of taxation, of national happiness, and legislative oppression, such as the citizens of the United States will never willingly incur?

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In whatever way we view this subject, (and we have endeavored to bestow on it all the consideration which its great importance so justly merits,) we cannot avoid anticipating, from the success of the tariff project, irreparable injury, not only to agriculture and commerce, but to many of the mechanical trades immediately connected with and dependent upon these two great sources of the wealth and physical power of this nation. Agriculture, already bereft of half her ability to pay taxes by a combination of circumstances, among which our protecting duty system holds a prominent station, is now called upon to pay a still further tax of some ten, twenty, or thirty per cent. upon almost all her necessary purchases—at a time, too, when the existing duties have been more than doubled in value to those who receive the benefit of them, by the appreciation of money, and the depreciation of domestic provisions of every kind; a depreciation, moreover, so continued and portentous, as to threaten to terminate even the culture of several of those products which heretofore have most contributed both to our emolument and to our comforts. What is to be the consequence? Why, a rapid and appalling retrogradation throughout the community, compelling us not only to relinquish most of those embellishments of civilized life which polish and adorn the social structure, but also to bid adieu to all fond hopes which solace the parent and animate the patriot, in regard to the progress of education, the improvement of morals, and the general diffusion of national happiness. Commerce, curtailed in all her branches by the same sinister combination of events, is required still further to furl her sails, or to spread them only to the breezes of our bays, our rivers, and our seaboard; or, if not deterred by the numerous difficulties which present themselves to her customary pursuits, she still essays to spread her canvass over the bosom of those distant seas, from navigating which she has heretofore hoped to derive a fair and honorable reward for her toils, she is told that a large portion of her now scanty profits must go to foster a new interest in our community, which it has been found upon trial cannot be gotten up without levying still heavier contributions both on agriculture and commerce. The numerous artisans, too, whose reliance for comfortable support has hitherto been placed upon the prosperity of agricultural and commercial occupations, must now be transferred to some other less precarious dependence, or their present employments exchanged for hopeless inaction. And what is the inestimable boon held out to us as a compensation for all these privations? Why, truly, an adequate home market for all our domestic products! That this idea is altogether fallacious, we trust can be made manifest by a very few remarks. The manufacturing establishments which, it is said, will grow out of the tariff, are to be peopled from the population already within the country, or to be supplied by foreign importations. If in the first mode, then it is obvious that, unless we suppose the intended recruits can live in their present scattered condition without food altogether, they will not, when imbedded, con-

sume so much more additional provision as to compensate for the great diminution of exports which the new tariff must necessarily occasion. It is only, then, by the importation of that class of foreigners, (the least desirable part, in general, of foreign population,) that the number of manufacturing consumers, and consequently the quantum of consumption, can be materially augmented. This is unquestionably true as to provisions. But, it will be said, our raw materials will then find so much more extensive a market than they have at present, as amply to remunerate us for all additional costs. If it were true that we had no home market at all for our agricultural products, it might become a question with some whether it would not be worth while to incur a considerable national expense with a view to create one, provided it was probable that the domestic sale for our surplus produce would then be so much greater than the foreign sale extinguished by this creation as to reimburse those at whose cost it was made for all additional expenses. But this happens not to be a fact. Your honorable body cannot be ignorant that our home market for the product of the soil, especially for cotton, is even now on the increase; that a large portion of our manufacturers claim no further protection, ask no additional duties; that the stockholders of one of the most considerable and flourishing manufactories in the United States, (we mean that of Waltham, in Massachusetts,) at this time divide twelve per cent. on their capital; and that most others of any standing are known to be in a sufficiently flourishing condition to ask no aid from Government. The question, then, is simply reduced to this; shall we impose additional duties upon almost every article of foreign importation, either to gratify the sanguine expectations of those who wish to make trial of such manufactories as do not exist here at present, or to enable those who have failed, no matter from what cause, in manufacturing experiments already made in various parts of our country, to renew them at the expense of more than three-fourths of the nation? Relying as we do upon the wisdom and patriotism of our Legislature, we cannot for a moment believe that, from the freest Government upon earth, we are to expect a system of policy so repugnant to every principle of reason and justice as would be that which your honorable body has been so importunately urged to adopt. And we confidently trust that the men to whose intelligence and virtue the American people have intrusted the preservation of their dearest rights and interests are as deeply impressed as any of their constituents themselves can possibly be with the truth and importance of the following cardinal maxims in legislation:

That, if the principles both of justice and policy forbid the majority of a nation to impose any tax on the minority alone, *a fortiori* they inhibit the imposition of any tax to be levied upon the former for the sole benefit of the latter. That, where revenue is to be derived from impost on foreign commodities, universal experience has demonstrated that moderate duties contribute much more than high ones towards the attainment of this object.

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That, where such duties are imposed to foster the particular interest of any class who pay no part thereof, those duties must necessarily come out of the pockets of all other classes in the community, and are in direct violation of the fundamental maxim "not to tax the many for the benefit of the few."

That the practice of frequently changing those revenue laws which operate as taxes upon agriculture and commerce have a much more pernicious effect upon both, but especially on the last, than permanent taxes of the highest kind, compatible with the permanent existence of those two great sources of national wealth and power.

That for Government, by legislation, to add to those casualties and uncertainties which naturally affect the profits of labor, is to infringe on the natural right which every man has to pursue any trade, profession, or calling that he pleases, and is to administer oppression instead of justice.

That, by the exercise of such a power, Governments may not only force individual capital into any channel which they please, but may either create or suppress, *ad libitum*, any particular class among the various ones into which communities are usually divided.

That the reciprocal wants of agriculture, commerce, and manufactures, with their relative capacities of supply, are sure guarantees of mutual good and friendly offices, when left to exert their respective energies in their own way; but that the interference of Governments with their private concerns rarely fails to produce a jarring of interest, and consequent hostilities both of feelings and conduct.

That the natural diversities of soils and climates, and the artificial varieties of manners, habits, and customs, are far better regulators of supply and demand than the wisest legislators can possibly contrive.

That a due proportion of heat, moisture, and the pabulum of plants, will not more certainly produce a vigorous and healthful growth in the vegetable kingdom, than will the natural inclination of mankind to improve their condition produce it in the political world, if left to exert itself entirely free from all legislative restraints but such as peace, order, justice, and good morals require.

And that it may be laid down as a maxim admitting of no exception, that national industry is invigorated by free trade, and depressed by every thing opposed to it. All which is, &c.

WILLIAM BAYARD,

*President of the Convention.*

JOHN VAUGHAN, *Secretary.*

PHILADELPHIA, November 4, 1820.

# INCREASE OF DUTIES ON IMPORTS.

[Communicated to the Senate, December 8, 1820.

To the honorable the President and members of the Senate of the United States of America :

The citizens of Charleston have seen, with deep regret, the efforts which were made at the last

session of Congress to impose a high rate of duties on all manufactured articles imported into the United States—efforts made for the express and avowed purpose of creating, encouraging, and supporting, in this country, great manufacturing establishments; of modifying and curtailing extensively our mercantile intercourse with foreign nations; and of forcing from their present employments much of the labor and capital of our fellow-citizens.

As there is much cause to apprehend that this measure will again be presented to the consideration of Congress, your memorialists beg leave to state the reasons which have led them to view this measure as one unfavorable to the general interests of the United States; as one likely to prove partial in its operations, injurious in its effects, uncertain in its results; as one which departs equally from the spirit of our constitution and the best established principles of national economy. It is a position almost too self-evident for controversy, that, in every free or well-regulated Government, labor and capital should be permitted to seek and to find their own employment. To the sagacity of individuals this trust may be safely committed. A Government can never regulate to advantage, the employment of capital; because success in the pursuit of wealth, in every department of life, depends on local circumstances, or minute details, on personal exertions, which cannot be regulated, on causes that escape those general views which alone a Government can take of the transactions of its citizens. It is sufficient that a Government takes care that the employment of each individual shall inflict on others or on the community at large no injury, and that each shall receive equal and uniform protection; all interference beyond this is useless or pernicious. It is equally obvious that those employments of capital which are most profitable to the individual must, on a general scale, prove the most advantageous to the State. National is but the aggregate of individual wealth; whenever, therefore, capital is diverted from one employment, in which it makes a certain profit, to another, in which a smaller profit only can be obtained, the difference between these employments of capital is exactly, to the extent of that difference, an actual loss to the community. Now, whenever individuals are induced to engage in the less profitable employment by assurances of national indemnity; whenever the rest of the community are compelled to make good the losses which, by these enterprises, may be sustained, the results are not only injurious, but unjust; because, while the nation, as the whole, becomes a loser by these idle projects, the many are obliged to surrender a portion of their fair and well-earned profits to enable the few to amuse themselves unnecessarily with unprofitable speculations. But if, from the state of society, or from local circumstances, this measure should be partial in its operation; if this forced employment of capital should be confined to a particular portion of country, the injustice becomes doubly great; because it then not merely causes a transfer of property among the individuals of each particular division of territory,

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without affecting the general wealth of those divisions, but some entire districts are absolutely impoverished, while others are exclusively enriched.

Under all these aspects, the new tariff presented to Congress at its last session merits our disapprobation. Its avowed object is, by imposing heavy duties on the importation of foreign manufactures, to grant high bounties to all of the capital which shall be employed in manufactures in the United States; and by shackling, at the same time, and curtailing our commerce, to force, by these united measures, to the loom and the workshop much of the labor and capital which are now employed in agriculture and commerce. This is unnecessary or unwise. If labor and capital employed in manufactures will produce as much profit as in agriculture or commerce, it is unnecessary; because the cupidity and intelligence of individuals, when unrestrained in their pursuits, will soon turn them into this channel. If they will not produce as much profit, it is unwise; because labor and capital will, by these means, be forced into an unprofitable employment. Every laborer employed in unproductive occupations must become, directly or indirectly, a burden on the community. He will either become a pauper, to be supported directly by the charity of his fellow-citizens, or he must be supported indirectly, by their consenting to pay more for the products of his labor than would purchase the same products from other quarters. It is to this point that the premature establishment of manufactures will lead; and the effort now made to impose heavy duties or prohibitions on foreign manufactures is only to disguise, in this shape, the bounties we must pay to the laborers engaged in the domestic fabrication. We are aware that the employment of capital is not always determined by its absolute profit. Other circumstances have, and deserve to have, much influence on the pursuits of men. It has heretofore been said that the price of labor and provisions in this country was so high as to render the establishment of manufactures impracticable; that bounties were indispensable to give them life, and even a temporary existence. This was virtually to abandon the question, and to acknowledge that labor in other pursuits obtained a profit which could not be afforded to it in this. But a new aspect is now given to this discussion. The price of provisions, which, for many years continued unusually high, has now fallen to a level preternaturally low; labor must fall in proportion; and when these preliminary advantages are obtained, why should systems of restriction be still wanting? Why should public exertions be required to force labor into this channel? There can be but one reply, which is, that to the establishment of manufactures our state of society is still unpropitious. The surface of our vast territory is still insufficiently supplied with laborers; our forests are still uncleared; and much of our most fertile soil is still untrodden. Man—even the poor man—will not seclude himself within the walls of a manufactory while he can possibly find a maintenance in the more cheerful walks of agricultural industry. The life of the husbandman is one of

comparative enjoyment. In his path are health, and temperance, and peace, with a mind exercised and improved, and a proud spirit of independence encouraged and preserved. He looks for his subsistence not to one man, nor to a few; wherever there is earth, and air, and a soil to be cultivated, he may find employment. But the monotonous and melancholy toils of the manufacturer, confined for days and years to one spot and one unchanging occupation, contract the mind, debilitate the constitution, and render him more dependent than the laborer in any other occupation. One country in Europe bears, in this point of view, a strong resemblance to our own. Russia possesses an almost unlimited extent of fertile territory, thinly inhabited, and still offering to the husbandman unstinted occupation. In Russia, for the last forty years, (perhaps for a century past,) provisions and labor have been cheaper than in any other country in Europe; yet, in Russia, manufactures have made no permanent progress. Like ourselves, the inhabitants manufacture a few articles to which their circumstances are peculiarly favorable. During the existence of what was termed the continental system, efforts were made in that country to diffuse manufactures extensively; and the necessity is now imposed on the Government of embarrassing its commerce, in order to afford some protection to the establishments which have been prematurely called into existence. But the Russians are not, and will not soon become, a manufacturing nation. The same causes appear to have produced with them, and with us, similar effects. The peasantry, even when unthrilled by their system of vassalage, can still find subsistence by tilling the soil; and the ineffaceable love of nature, only to be overpowered in the human mind by a stern necessity, leads them to prefer the coarse and scanty enjoyments of the rustic laborer to the more dependent, though more flattering, occupation of the manufacturer. Surely the moral influence of such feelings and opinions ought not to be disregarded, nor can their political effects be overlooked in an enlightened Government. When an overflowing population shall naturally give rise to extensive manufactures, we will then rejoice in their establishment, as a means of varying the application of capital, and of giving employment to suffering industry; we will share with them equally our rights, our privileges, and our immunities: but we perceive no motive for producing artificially such a state of society. The experience of Europe teaches us that the population of great manufacturing cities is very ignorant, very immoral, very poor, and very dependent; and yet, from the facility with which, from their numbers, the workmen can combine, from their misery, and from the fluctuating nature and results of the pursuits in which they are engaged, they become the most disorderly and discontented citizens in the whole community. For such a population shall we voluntarily exchange the tillers of our soil? Shall we drive, almost with violence, our citizens from the ploughshare and the scythe? And if, upon this subject, we require additional cautions, let us remember how much more stable

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has been the power and prosperity of agricultural nations than of those founded on any other basis.

Every duty on imported commodities operates as a tax on the consumer. When these taxes are imposed only to supply the necessary wants of the Government, they are cheerfully paid; when imposed to enrich individuals, we should surely consider well on what grounds the claims of such individuals are advanced; we should inquire carefully what reciprocal benefit the public will receive. It is the interest of every member of the community to purchase the articles he may wish, or be obliged to consume, at the lowest possible price. This increases the value of his exchangeable commodities, and increases, of course, his enjoyments. Whenever this privilege is abridged, it becomes him to inquire whether, as an individual, or as a member of the community, he receives an equivalent advantage. The great plea for taxation advanced in this case is, that domestic manufactures will make us independent of foreign nations. This is certainly important in itself; but, when advanced as a ground for forcing artificially the production of every thing we want, the plea is every way fallacious. Physical independence consists in possessing those articles absolutely necessary for our existence. These we have long since enjoyed. Few nations are, from the bounty of Providence, more independent than the United States. Beyond this, the independence of the savage consists in his exemption from all wants; the independence of the civilized man, in his power of supplying and gratifying the wants of social life. Wealth to him, in this view, is independence; and wealth consists in the quantity of consumable articles he can obtain for the surplus labor or produce he may have to exchange; and this, in a great measure, depends on the liberty he possesses of exchanging those articles under the fewest restraints, and consequently, to the greatest advantage. Whatever curtails this power lessens his wealth; whatever diminishes his wealth abridges his independence. If, under a new system, the surplus labor of an individual will procure for him but one-half of the articles of consumption which he has hitherto been accustomed to receive for the same labor, what compensation will it be to him to know that this diminished supply was produced in his own country, or even on his own farm? But if this argument is really valid, it will extend much farther than its present advocates mean to apply it. If it is necessary that a nation, to be independent, should raise within itself every article it has occasion to consume, it will be much more important to raise those of general consumption than those which may merely gratify the wants of luxury and fashion. If, therefore, we are by bounties to fill our Northern cities with manufactories to furnish articles with which we could well dispense—if this is necessary to our independence, equally so will it be to cover our pine barrens with hot-houses, to raise the sugar and coffee, the tea and pepper, and the other productions of tropical climates; to give high rewards for the manufacture of wine, and oil, and salt, and many other articles, which are daily required in our domestic consumption.

Sufficient bounties will furnish us with a domestic supply of those articles, all of which are now in common use; and some, from our habits, articles almost of necessity. And when one portion of our countrymen call for bounties to create manufactures to which our state of society is unfavorable, let them act uniformly, and at the same time grant bounties to raise those articles to which our climate is unpropitious. The attempt will be equally practicable, and equally wise. In truth, if this plea is of any avail; if this absolute local independence is of real importance, it applies as strongly to sectional as to national divisions. If it is desirable that a nation should produce within itself all the articles necessary for its consumption, it is equally desirable that each division of that nation, each province or State, each district, each plantation, each farm, each individual, should equally possess this power. If every nation is dependent that is obliged to purchase the production or manufactures of other climates or countries, every individual must be in the same degree dependent who has to purchase the products of the labor of other men. There is no distinction in the argument; there is no pause until we arrive at that state where each individual shall produce for himself every article which he may wish to consume, and must consent to want every article which he cannot raise or fabricate. This will carry us back to that condition in which the semi-barbarous people of Europe existed during the pressure of the feudal system; when almost all intercourse between individuals and nations was interdicted; when nothing was interchanged but injuries, nothing remembered but oppression and wrong. How much more simple and more wise is it for each nation to raise or manufacture those articles which are most congenial to its soil and to the habit of the people, and exchange its superfluous productions for the productions of other climates and other conditions of society; to perpetuate, if possible, amicable relations with all countries, by the firmest of all ties—reciprocal advantages; remembering always that, in proportion as this interchange is free and unrestricted, will be the mutual benefit it will confer! We acknowledge that most foreign Governments still impose great restrictions on national intercourse; that they have made great exertions and immense sacrifices to produce at home manufactures of all descriptions; great efforts to secure this species of independence; and it is really from the experience of foreign nations that we are inclined to suspect the wisdom of their practice. We have seen them impose upon themselves a population which they are obliged to support; entangle themselves in a system from which, even when their ablest statesmen deplore its effects, they cannot, without a revolution, be extricated. The very magnitude of the evil prevents a remedy. The amount of capital and the number of people engaged in an unprofitable employment may render it cruel, if not impracticable, to withdraw from it the countenance and support by which it was first encouraged. And the influence which so strong an interest, and one so easily combined, can exert over any Govern-

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ment, should make us in this country very cautious how we render that a claim which, at first, may be regarded as a favor. It is, in the present instance, to the extraordinary combination of interests and of exertions among a class of citizens whose pursuits are very distinct, and whose title or pretensions to support are widely different—it is to this demand for indiscriminate encouragement, that we particularly object; it is from this combined effort to force our Government from its position, that we view with apprehension and alarm the application of the united body of manufacturers, even when advancing new, and, as we think, unreasonable claims. What administration would ever have the power or the resolution to withdraw from them hereafter any privileges which may have once been improvidently granted. Neither should it be forgotten how hostile to the general spirit of our Constitution is every system of restriction, of monopoly, of particular privileges. It has been our boast and our highest advantage that we have been able to commence an experimental Government, liberated from all those encumbrances and embarrassments which time and circumstance, and prejudice and ignorance, have imposed on the old Governments of Europe—encumbrances which, even in an enlightened age, they cannot remove; that we have been able to bring to the test of experience the theories and speculations of the statesman and the philosopher; that we have been able to exemplify, most particularly, the advantages of unlimited freedom in the pursuits and opinions of men. Our own career has been one of unexampled prosperity; our own experience forms one of the most instructive records of history. Most unwise shall we be, if, forsaking our own doctrines, and untaught by our own lessons, we shall abandon the simple but sublime principles by which we have hitherto been guided, to adopt the temporary, fluctuating, disjointed expedients of European practice.

We regret when we are compelled to advert to local or sectional advantages, or to view our own interests as distinct from those of any other portion of our fellow-citizens; but the circumstances which have lately been forced upon our attention oblige us to view this question in relation to our own immediate interests. The Southern States are not, and cannot for a long series of years become, a manufacturing nation. We have not a population equal to the cultivation of our soil; and the insalubrity of our climate forbids the hope that this deficiency will soon, if ever, be supplied by a population of white laborers. We raise, and must continue to raise provisions, articles of the first necessity for man in every climate, and raw materials for the use and consumption of manufacturing nations. It is, therefore, peculiarly our interests that our interchange with the world should be free; that the markets for the consumption of our produce should be extended as widely as the habitations of man. It is equally our interest that the articles we are compelled to consume should be procured on the most advantageous terms.

We are among the last people who should wish to restrict the freedom of commerce, or, by limiting

on our part national intercourse, induce other nations to impose countervailing restrictions upon us. Let us not flatter ourselves that the statesmen of Europe will permit a system of restrictions to be partial in its operations. It is a matter almost of delicacy to touch this part of the subject; but it is idle to shut our eyes to our danger. Let us, then, examine the possible (we may say probable) effects of this system on the great staple of our country. Our cotton is now admitted into Great Britain on terms as liberal as the cotton of any foreign nation. It can be carried to her ports in our own vessels. In fact, this trade is now chiefly carried on in the vessels of the United States; and by this means some of our most important manufactures (those connected with ship building) are encouraged, and the security and reputation of our country are increased by the seamen it nurtures and protects. To this trade Great Britain consents, because to her the general commerce of the United States is highly important, and because our consumption of her manufactures offers an equivalent for the advantages we now enjoy. But let us once declare that this trade in future shall be beneficial only to ourselves; that we will take nothing from her, while we wish her still to continue the great consumer of our produce; and we may soon feel the error of such calculations. If, for instance, we should prohibit in this country the introduction of the manufactures of Great Britain, or impose on them duties amounting to a prohibition, have we no reason to apprehend that she may, on her part, prohibit totally the introduction into her ports of our cotton, our rice, and our tobacco, and turn to other quarters for the supply she may require? Brazil and the East Indies can even now furnish her with these articles in sufficient abundance, and, independent of the advantages she would derive from her general intercourse with these countries, the transportation of these very commodities would be exclusively in her own vessels, and her ship owners and her seamen would equally profit by this direction of her commerce. The new Governments, too, arising in South America, possess an immense extent of territory adapted to the production of cotton, and tobacco, and flour, and rice. All of them must at first become agricultural nations, and for a long time they will have to exchange the rude productions of their soil for the manufactures of other countries. On all sides we shall meet competitors in the consuming markets, ready to avail themselves of our errors and profit by our mistakes; ready to occupy any position which we may abandon, or from which we may be driven. Nor can we doubt of this result. Have we ever found the statesmen of the civilized world insensible to the interests of their respective nations? Have we ever found them deficient in sagacity to perceive, or in promptness to meet, the hostile combinations of foreign commerce? The interchange of nations, like the intercourse of individuals, can only be maintained by mutual and reciprocal advantages; and the experience of the world appears clearly to demonstrate that the more free is that intercourse, the more unfettered the commerce and capital of any nation, the more



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will the pursuits of that nation become extensive and diversified, and exempt from the fluctuation and ruin which finally must attend every system established on a forced employment of capital. Against these evils the prospect is held out to us of a domestic market for the consumption of our raw materials. This prospect is certainly delusive. In the United States we could only calculate to manufacture for the supply of our own wants, and this would not consume one-half—perhaps not one-third—part of the cotton we now raise, without adverting to the other staples of the country, or without bringing into view the rapidly increasing production of our Western States. Surely we cannot expect to become exporters of manufactures when we are obliged to call for enormous duties to protect them against competition even in our own markets, and when it is acknowledged that the removal of these duties will at any moment prostrate the whole system in remediless ruin. And for this insufficient and insecure market we are called upon to invite and provoke the commercial hostility of the whole civilized world, and to expose ourselves to the risk of having our productions driven from every country where the Government may think that reciprocal advantages should form the basis of every encouraged or even tolerated commerce. The Southern States will derive no immediate advantage from this measure, even if it should prove successful; but they are urged to promote it with the hope of creating a market for their productions, which may protect them from the evils they may feel on the possible failure of all foreign markets. And for this remote and contingent benefit, for this possible supply of a possible want, they are to endure many privations, to submit to many impositions, and to jeopardize the most important and valuable interests of our country. Of the importance of our foreign commerce—of its influence on the revenue, or even on the protection of our country, it is idle to expatiate. But one view, connected intimately with the question before us, we wish to notice. Foreign commerce draws wealth from abroad, and those engaged in it may prosper, without in any degree injuring the prosperity of other portions of the community. It is, in fact, the great principle of life which gives activity and energy to all of the operations of productive industry. It ranges over the world to discover the markets in which each particular commodity can most advantageously be exchanged; and the very transportation of these commodities becomes a source of great profit, and furnishes at the same time an arm of defence, which no nation should, without very serious consideration, permit to decay.

It is easily seen and acknowledged that, by this system, our foreign commerce will be deranged and materially diminished; but no one has undertaken to predict the extent of the injury. Indeed, the combinations of commerce are rarely seen or understood even by those most deeply engaged in its operations. The exchanges that appear the most simple are sometimes the result, sometimes only a term, in a series of exchanges that have been made, or are yet to be completed in the most

distant regions of the globe. The commerce that is carried on with one country is frequently dependent for its success on a commerce carried on through different channels, and under a different aspect, with some remote and unconnected nation. When we touch such a system rudely, we know not what portion may perish from our rashness or our ignorance. Surely, at a moment like the present, when the commerce of the whole world is embarrassed and debilitated, it would be most unwise to add to the inevitable evils of the hour. Let us rather foster that portion which remains; extend, by every possible means, its enterprises; and give new vigor to its exertions. Every interest and occupation in our country has suffered within the last two years by the rapid decrease of the circulating currency of the world, and by the fall in the price of labor and of produce, which has resulted in part from this diminished circulation, and in part from the steady continuance of peace among the civilized nations of the globe. But of the great interests of our country, no one can doubt that the mercantile has suffered most; and if bounties could be afforded to any one class of our citizens, the claims of the merchant for past losses and present embarrassments would be the strongest. Yet on this class we now wish to impose new burdens, and render more precarious the still hazardous ocean of commercial enterprise. Nor can we possibly overlook, on this occasion, that class of our citizens to whom this nation is virtually indebted for so much of its wealth and so much of its renown; nor think, without emotion, of discarding from our employment and driving into foreign service the seamen who, through so many years of discouragement, continued faithful to their country; who, in the hour of peril, have always been the foremost to rally around her banners; who, in war, have encircled her with glory, and in peace, still patient, still laborious, have quietly returned to an arduous, an unceasing, and a dangerous occupation. With such a race we wish not to part. Another evil of great magnitude presses on our attention. A duty of thirty, fifty, and one hundred per cent. is called for on all articles of foreign manufacture. This is virtually to admit that the productions of the foreign artisan can be sold in our markets at one-half or two-thirds of the price for which they can be manufactured at home. Will not the prospect, therefore, of immense profits lead to the illicit introduction of foreign manufactures—to the creation on our frontiers of an organized system of smuggling? This will be the more to be apprehended when these impositions are opposed to the general interests and wishes of the community. Public opinion will no longer, as at present, guard from violation the revenue laws of the country. Now, they are considered merely as the means of providing for the necessary support of our Government; as operating fairly, mildly, and equally on all classes of our citizens, and as preventing the imposition of more direct and more vexatious burdens. Yet, even now, intelligent men doubt whether the tariff is not in many instances unwisely high, and whether the temptations held out to smuggling

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are not greater than a prudent Government ought to offer. Under a higher tariff, the duties will be considered as partial, and for the exclusive benefit of a small portion of the nation. They will be transgressed; the revenue of the country will be injured; and the Government will be compelled to increase the severity of our penal laws, and to add enormously to the expense of guarding those laws against violation. This is not all. It is candidly admitted that this system, if adopted, will so derange and circumscribe our commerce that we shall no longer look to our custom-houses for the support of our Government. We must, as a constituent part of this plan, adopt a regular and permanent system of direct taxation. After having paid bounties innumerable for the support of manufactures, we must pay taxes to make good that revenue which those very bounties have tended to diminish. We shall have to divert to our daily support the resources which will be wanted, and should be reserved, for the hour of danger; and we shall incur unnecessarily the risk of alienating from the Government the affections of the people. We have yet to add the probability (perhaps, the certainty) that, after all, this great effort will be altogether useless. If these manufactures can only exist by excluding from our markets the productions of foreign workshops, what power moral or physical that we possess can secure the exclusion? If Bonaparte, while enforcing his continental system by the most arbitrary and sanguinary decrees, and by the efficient power of a great military despotism, could not close the continent of Europe against British manufactures; if Great Britain, with her insular situation and her multitude of ships, cannot prevent her coast from becoming a great mart and theatre of smugglers, how can we hope, with our mild laws, to prevent intrusion on every point of our extended and unprotected shores? How can we guard the long line of our Northern and Northeastern frontier, even from the mid-day trespasser? Our revenue will be destroyed, our legal and honorable commerce curtailed, and the morals of our citizens vitiated by the temptations and frauds of a contraband traffic; while the manufacturers themselves may be overwhelmed by the reaction of their own system; for there can be little doubt that our country would be inundated by foreign manufactures, liberated even from the impositions, and those not light ones, which they are now compelled to pay. And, surely, when we examine the present claims advanced by the manufacturers, we should be tempted to suppose that the much which has been already granted had on all sides passed into oblivion. The tariff which now exists, and which was imposed, in most cases, for the particular benefit and under the direction of the manufacturers, is probably as high as the circumstances of the country will bear. We have, already, perhaps, transgressed in their favor the limits which principle would concede. Our manufacturers are not only placed by the side of the agriculturists; they are, as far as Government bounties can operate, advanced and preferred. When has the agricultural interest called for bounties to

enable it to continue a culture which has been found unprofitable? Yet this may become necessary. In Great Britain it has already occurred. The corn laws of that country now act as a bounty on agriculture. They are a necessary supplement to the manufacturing system. The Government has been compelled to adopt them, to place the farmer on a footing with the manufacturer, to whom so many bounties had previously been granted. One evil has naturally produced another. Every interest in that country now rests on an unnatural foundation, and requires artificial support; in consequence, every thing is precarious—every thing unstable. The elements of convulsion are on all sides prepared, and nothing but the power of a military Government prevents the explosion.

The only stable employments of capital, those only which can be free from incessant fluctuation, are those which arise spontaneously from the situation of a country or the state of its society. The manufactures that can only flourish during war or under impolitic restrictions—those that wither at the approach of peace or of an unshackled commerce, merit not our encouragement. Those that require no bounty will dread no competition; and the capital and labor which are employed in them may be considered as permanently vested. If we begin once to give bounties—and the duties now proposed are but bounties in an indirect shape—let us make the system uniform and equal. Let us give bounties on the exportation of cotton and tobacco, on the exportation of rice and flour; let us give bounties on the labor that brings these commodities to our markets, and on the vessels that transport them abroad; let us, in short, give bounties to every production of domestic industry. If, from the magnitude of this effort, we recoil as from a thing impossible, we must then demand why this system should be partially adopted—why one-twentieth part of our citizens should be enriched by bounties drawn from the labor of all the remaining classes of society?

To manufactures we have no hostility; we wish to see them rise, flourish, and attain a vigorous and permanent maturity; but we wish them to advance gradually, as our wants, our means, and the state of our society, shall be adapted to their establishment. We think it unwise, by precipitate measures, to force manufactures into a premature being, and then impose upon ourselves the necessity of supporting them through a precarious, a diseased, and, after all, a temporary existence. To the establishment, at any cost, of manufactures, which, like the munitions of war, are necessary for our national security, we have never objected; but to an organized system for the general creation of manufactures upon speculative principles, we pointedly object. It is at the threshold we must yet pause; the steps we now take we may not be able to retrace; the pledges we now give to our citizens we may not be able to recall. When thousands, perhaps millions, of dollars shall have been invested in manufactures, with the assurance of public support and protection, we know not how, with justice, this system could be abandoned, and the property vested under such assurance be

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devoted to irretrievable destruction. Even if the evils attendant upon these efforts should prove in every respect pernicious, and should press sorely on every other branch of national industry, we must go on. It is impossible to point out the limits at which this system will rest. The tariff which was adopted with the approbation of the manufacturers in 1816 is now found insufficient; the tariff proposed in 1820, if it should be adopted, after having induced the investiture of additional millions of money, may be found equally unavailing. And when more capital, and a much greater proportion of our population, shall be engaged in manufactures, the influence of the wealthy and the claims and the necessities of the needy, whom we ourselves have seduced into these occupations, may force the Government, even reluctantly, and with a consciousness of its errors, into more disastrous measures—to the imposition of still higher duties, to restrictions, to prohibitions, to the necessity of lining our coasts with armed vessels and our shores with revenue officers, to the necessity of injuring the best interests of our country, and debasing the character and moral principles of a large portion of our citizens.

To manufacturers, we repeat, we have no hostility. We wish them to share in the general prosperity of our country, and repose and flourish under its liberal protection. But we perceive in them no features which would entitle them to partial favors or peculiar privileges. Against a system, therefore, designed to elevate one interest in society to an undue influence and importance; against a system intended to benefit one description of citizens at the expense of every other class; against a system calculated to aggrandize and enrich some States to the injury of others; against a system, under every aspect, partial, unequal, and unjust, we most solemnly protest.

STEPHEN ELLIOTT,  
*Chairman of the meeting of  
the citizens of Charleston.*

JAMES JERVEY, *Secretary.*

#### INCREASE OF DUTIES ON IMPORTS.

[Communicated to the Senate, December 18, 1820.]

*To the Senate and House of Representatives of the  
United States in Congress assembled:*

The petition of the delegates of the United Agricultural Societies of Prince George, Sussex, Surry, Petersburg, Brunswick, Dinwiddie, and Isle of Wight, respectfully sheweth: Your petitioners, a portion of the independent agriculturists of Virginia, again present ourselves to your honorable Houses, respectfully soliciting your attention to the present state of the tariff duties, and your protection against the wild speculations and ruinous schemes of an association denominating themselves the friends of national industry.

We should not again have obtruded our opinions, still less our arguments, on the wisdom and experience of our representatives, but from a conviction that the decision of this question is of vital

importance; that, by the establishment of that system of exclusion developed in the tariff bill presented at your last session, the commercial and agricultural prosperity of the nation would be completely prostrated; the whole frame of our Constitution strained to accommodate this monstrous anomaly in a free Government; and, as a necessary consequence, nothing left of our boasted freedom and anticipated greatness but an empty name.

Though we do not believe that all who support this measure are aware of its consequences, yet we cannot conceal from ourselves, nor would we from our fellow-citizens, that the authors of this project contemplate nothing less than a radical change in our political institutions.

We cannot persuade ourselves that the fabricators of so formidable a machine should not have calculated both its powers and tendencies, and adjusted both to the views of its projectors. That their views are not directed solely or principally to the protection of manufactures, we are convinced, by the single fact that our manufactures are already more than sufficiently protected.

The present tariff duties operate as a bounty of at least twenty-five per cent. in their favor. Freight, insurance, commissions, and the various other expenses of information, cannot be estimated at less than fifteen per cent. The British manufacturer, the most formidable rival in this and every other market, is taxed by his own Government to the amount of one-third of the whole product of his industry; which also operates in favor of our manufacturers, adding thirty-three and one-third per cent. to the former amount. The extraordinary rise in the value of money in this country must also be taken into account, as it operates as a bounty in favor of our manufacturers—the increased value here enabling them to procure necessities as well as labor for a smaller sum; while the comparatively low value of money in Europe, compelling the foreign competitor to keep up the price of his goods, enables the American to keep up his prices also, nearly to the former standard.

The aggregate of these bounties will be found considerably upwards of one hundred per cent. in favor of our manufacturers. With these facts before us, we cannot be persuaded that the protection of manufacturers is the real object of the new tariff bill. But, to come at the true design of its authors, we have only to investigate the obvious tendency of the measure. The means will generally discover the end.

The first operation of the prohibitory system will be ruinous to those immediately engaged in foreign commerce, with whom almost every individual, directly concerned in any branch of trade, will be more or less involved. Other nations will retaliate, by excluding our products, as we have excluded theirs. The carrying trade, of which the superiority of our vessels would, under different circumstances, always insure us a valuable portion, must cease. Ship building, after being brought to astonishing perfection, and daily becoming a more lucrative business, will be forgotten; our vessels rot in our harbors; and our sea-

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men emigrate, or resort to piracy or smuggling, for want of honest employment. Our coasting trade and fisheries will soon be at the mercy of our enemies; for neither can be long protected by a nation without foreign commerce.

The mercantile and agricultural interests are so intimately connected, that the ruin of the farmer must follow that of the merchant in no distant succession. The diminution of revenue derived from imports and sale of public lands must be made up by heavy internal taxes—the principal weight falling, as usual, on the agriculturist; the price of almost every article he is obliged to purchase will be increased at the pleasure of the pampered monopolist, who, competition being removed, will be limited in his demands only by the measure of his own cupidity—of the latitude of which we have had a fair opportunity of judging during the late war. The quantity of produce must be reduced to the limits of home consumption, as we can no longer calculate on a market for the usual surplus among nations whose goods we refuse to take in exchange; without exchange of goods, commerce cannot exist; the value of lands, buildings, and stock, will rapidly depreciate; and the owners, once the pride and strength of their country, sink into poverty and insignificance.

While our independent yeomanry are to be thus humbled, while their proud spirits are in training for the yoke, another party, less attached to the soil, and completely dependent on the bounty of Government, is to be raised to opulence and power, to be invested with exclusive privileges, more especially that of taxing their fellow-citizens at discretion; and this, as we are told, for the sake of national independence. It is more easy to see how zealously such men would support even the most obnoxious and unprincipled measures of a Government on whose breath their wealth and consequence depend, than how national independence can be promoted by the oppression of a vast majority of the people for the benefit of a small minority.

National independence has always appeared to us something very different from the oppression of the people and the creation of privileged orders. That this is the end to which the prohibitory system inevitably leads, we have no doubt; that such is the favorite object of its authors, charity may still hesitate to pronounce.

The history of any branch of the forced manufactures of Great Britain exhibits a series of oppressions so extensive in their range, so gross and revolting in their operation, as would, we believe, deter any friend of liberty or justice from repeating the experiment. We collect, also, from the same source, the uncertain issue of attempting to force manufactures; for, with all the characteristic ingenuity, patience, and industry of her artisans, backed by powers such as a free people can never delegate to their Government, or permit them to assume, we find that there are some manufactures which Great Britain has not been able to force. We note the silk manufacture, which, from the revocation of the edict of Nantz to this day, has

been unproductive; while millions have been lost to the nation by excluding the silks of France and Italy, and, in return, having their manufactures excluded by those nations.

The abortive attempts repeatedly made, since the union of Great Britain and Ireland, to establish the woollen manufacture in the latter country, are worthy of consideration, as immense sums, both of English and Irish capital, have been sunk in the undertaking; and we cannot but observe that the establishment of the same manufacture in England has been effected at a price no free people would consent to pay.

These facts would induce us to suspect that the only certain results of the system in which we are about to involve ourselves are enormous expenses and gross violation of principle.

To obviate all these difficulties, we are assured that, by the establishment of manufactures, a home market will be obtained for the whole of our produce. As this argument has been so often and so confidently reiterated, it will be necessary to ascertain its value.

If we already supply the whole people of America with as much corn, wheat, and tobacco as they can consume and export, besides a large surplus, by what operation of the new tariff bill is this surplus to be disposed of? We cannot presume that the appetites and capacities of our people will be so much increased by the operation of the shuttle or the gin as to work such a miracle.

The only solution this difficulty admits of is the one given by the advocates of the prohibitory system, to wit: that it may be made the interest of the farmer and planter to embark their capitals in manufacturing establishments; that, by thus diminishing the number of cultivators, and consequently of produce, we may get rid of our surplus by not raising it. Now, we really consider this as one of the most impudent proposals ever made by the most unblushing empiric to a reflecting people. The agriculturists of the United States (an immense majority of the nation) are called on not only to abandon every prospect of clearing the millions of acres of rich land in their back country, but also to abandon a part of that already in cultivation; to consent to have it made their interest to engage in manufactures, by the joint operation of exclusion from market, increased taxes, and manufacturing impositions. In plain English, the hardy, independent sons of our forests and our fields are called on to consent to be starved into weavers and button-makers. But, be it remembered, that, before this conviction of their interest has reached them, few will be found disposed to purchase lands and stock, no longer valuable; if any, it will be for a pittance, not sufficient, probably, to pay their debts.

These people would really persuade us that the cultivation of the earth is no species of industry; that all are idlers who neither weave nor spin, and may, of course, be fairly proscribed; their fields turned into deserts, that factories may be established, (those precious seminaries of spotless virtue,) where the daughters of our ruined farmers may learn industry, simplicity of manners, and

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purity of mind; and their sons, temperance, soberness, and chastity, as practised in the best institutions of Leeds and Manchester.

That the despotic power of driving any class of citizens from the employments of their own choice, and forcing them into others, profitable or unprofitable, congenial or uncongenial, has been delegated to the Federal Government, we can no more believe, than that the authority to divide our people (like the Hindoos) into castes has been conveyed under the form of powers to regulate trade.

After demonstrating the ruinous tendency of the prohibitory system, with respect to the agriculture, commerce, and revenue of these States, and its entire inconsistency with the spirit of our free institutions, it is scarcely necessary to dwell on more remote consequences, amongst which may be anticipated a regularly organized system of smuggling, introducing in its train fraud, perjury, the exercise of lawless force, swarms of tide-waiters and sycophants, increased Government expenses, and an immense executive patronage.

We cannot restrain the expression of our surprise that a system, the impolicy of which has been long since demonstrated by the ablest political writers of Europe, and confirmed by the experience of the greatest commercial nations of the world, should, at this day, cost a moment's discussion in America. England confesses the ruin in which she has been involved by the pursuit of this system, and her inability to extricate herself. The commerce of Holland has been completely paralyzed by the protection afforded by their King to the manufactures of his Belgian subjects.

The idea of enriching a country by confining its whole wealth within its own limits is a mere chimera. The only use of wealth that we can conceive is, to enable its possessors to procure the necessities and comforts of life; and, if we can procure these in greater abundance by sending a part of our wealth abroad, we increase our happiness in the same proportion, and, in effect, increase our wealth also.

So far from wishing to realize the vision of supplying all our wants by the labor and ingenuity of our own citizens, and thus being enabled to insulate ourselves from the rest of mankind, we would consider such a consummation the heaviest misfortune that could befall us.

That freedom and science can be kept alive amongst a people only by an extensive intercourse with the rest of the world, a glance at the condition of nations, ancient and modern, clearly establishes. In the whole range of history, we find those nations only enlightened, powerful, and free, who have cultivated an extensive foreign intercourse; while those whose jealous policy insulated them from the other nations of the earth have been ignorant and slavish in proportion to the degree of seclusion they have practised. Of this latter description, the Chinese, Persians, and Turks, (and, indeed, the whole of the eastern monarchies,) afford most deplorable specimens.

Considering the whole system of bounties, monopolies, and protecting duties, as tending, in all its

bearings, to interrupt the prosperity, deteriorate the morals, and subvert the liberties of our citizens, we respectfully and earnestly solicit your honorable Houses to protect us from those evils, by disembarassing every species of industry from all artificial impediments and restraints, as far as may be consistent with the production of the necessary revenue, and leaving them to the surest of all protection—their own utility, and the interest of those engaged in them.

**RICHARD FIELD,**

*President Delegation, pro tem.*

**EDMUND RUFFIN,** *Secretary.*

[Communicated to the Senate, December 22, 1820.]

CLARKSVILLE, MECKLENBURG CO., VA.

December 7, 1820.

*To the Congress of the United States: The memorial of the Roanoke Agricultural Society:*

Your memorialists beg leave to represent, that the section of country in which they reside has hitherto been marked for its quiet acquiescence in the will of the constituted authorities, and a becoming obedience to their dictates. Removed at a considerable distance from the sphere of political action, they have hitherto been contented to remain silent (though not uninterested) observers of public measures. The majority of the people consisting of independent husbandmen, they are willing that the affairs of Government should be left to the guidance of those to whom they have been intrusted, so long as a due regard of their rights and interests is observed. Believing that the course of public measures hitherto has, in general, been conducive to the public weal, their voice has not on any former occasion been obtruded on the ear of your honorable body. But their silence has not proceeded from a disregard or an ignorance of those rights and interests. They would consider themselves unworthy of the high political enjoyments to which they have been so long accustomed, could they contemplate with apathy the invasion of the one or a wilful neglect of the other.

The tariff bill introduced at the last session of Congress, and which, it is apprehended, may again be introduced at the present, could not fail to agitate the feelings and excite the alarm of your memorialists. In that measure they perceive a blow aimed at their welfare, which the voice of self-defence calls on them to endeavor to avert. It is deemed unnecessary to enter into details for the purpose of exposing to your honorable body the *impolicy and injustice* of attempting to encourage manufactures by legislative interposition. The good sense of every reflecting mind, the wisdom of statesmen, and universal experience, bear decisive testimony against such interposition.

The peculiar circumstances of each country must point to the pursuits of its inhabitants. In one like ours, reaching to every clime, and embracing every soil, with a population thinly scattered over it, agriculture is the occupation to which its inhabitants naturally look. They possess suffi-

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cient intelligence to perceive the path of their interest, without having it pointed out to them by their law-makers; and so soon as it shall become their interest to betake themselves from one occupation to another, they will do so without legislative compulsion; and, until they lead the way, it will be worse than folly to force them.

It is an axiom in political economy, that when a nation can import cheaper than she can manufacture, she should not pretend to set up workshops of her own, but should rely on those of her neighbors; for nothing can be clearer than that if the same labor devoted to raising produce and exporting it for exchange will procure more in the way of manufactures than if employed in manufacturing, the fruits of the national industry will be diminished by manufacturing. Such is precisely the situation of this country. None are so ignorant as not to know that we import better and cheaper than we can manufacture ourselves. Indeed, the simple fact of the requisition of prohibitory duties speaks more than a volume on the subject. If our own manufactures were of equal quality with and cheaper than those imported, they would have nothing to fear from foreign competition; but it is because they are inferior and dearer that their sickly tone is heard praying for protection.

Your memorialists would beg leave to direct your attention to what has been said of our *protecting duties* by European politicians of great celebrity. The Edinburgh reviewers, speaking of our manufacturing interest, remark: "Had the Americans acted wisely, they would have left this new interest to defend its own resources; but, in humble imitation of the wisdom of their ancestors, they immediately set about fostering and dandling the ricketty bantling; and, to save it from the effect of foreign competition, increased the duty on imported cotton and woollen goods from 12½ to 25 per cent. This increase of duty, (or, which is the same thing, this addition of 12½ per cent. to the price of all the cotton and woollen cloths made use of by the American people,) not having been found sufficient to protect those rash and imprudent speculators who had engaged in a branch of industry which, they must have been certain, could only exist by means of a monopoly, Congress have favorably entertained a proposal for making so large an addition to the present duties as will go far to render them prohibitory. Now, we feel perfectly assured that nothing but the example of Great Britain could ever have induced the American Legislature to listen for a moment to so monstrous a proposal. The boundless extent of fertile and unappropriated land in that country must, for ages to come, render the raising of raw produce the most profitable species of industry in which her citizens can possibly engage; and any attempt to encourage the premature growth of manufactures, by forcing the investment of a very large proportion of the capital of the country in a less productive employment, must occasion a proportional diminution of the power to accumulate stock, and of the wealth and riches of the country."

Deeply impressed with the truth of these remarks, your memorialists are compelled to ascribe to feelings of favoritism alone the officious care which has been manifested of this "new interest." For the purpose of forcing and pampering a puny and comparatively insignificant manufacturing interest, agriculture is attempted to be grievously taxed, our revenue diminished, and commerce, in a great measure, destroyed. Thus raised, it will be like the production of a hot-bed forced out of season; its curiosity may surprise, but it can never ripen into any degree of usefulness.

But there are other considerations, connected with our political institutions and situation, which may be suggested. No condition is so well calculated to inspire feelings of freedom and independence as that of the agriculturist who cultivates his own soil; none so fitted to debase and to degrade as that of the hireling manufacturer, who depends for his sustenance on the scanty wages afforded him by his wealthy employer. To keep alive those feelings is deemed indispensable to the preservation of our republican frame of government. Every measure, then, which has a tendency to increase the number of the latter, and decrease that of the former description of population, weakens the pillars by which that frame of government is supported. To your wisdom it is left to determine whether, in the hour of impending peril, we should look for defence to the sweepings of our manufactures or to the yeomanry of our country.

Again: identity of feeling and interest is the cement of our Union. Without it, the component parts of our confederacy must hang too loosely together to withstand the jars to which it must be exposed. That identity would be destroyed by a rigid system of prohibitory duties. In the nature of man, it cannot be expected that the agricultural and commercial portions of the Union could experience any other feeling than that of the bitterest hatred towards the manufacturing interest, by whom they would be burdened to the utmost of their power to bear; they would cease to feel as members of one great family.

We have no favors to ask at the hands of Government. All we require is, to be left to ourselves, and to our own resources. As we desire not to interfere with others, we hope and trust not to be interfered with.

We therefore respectfully pray that no augmentation of duties may take place which will have any other object than an increase of revenue.

THOMAS M. NELSON,  
President.

CHARLES L. WINGFIELD, Secretary.

#### DUTY ON SALES AT AUCTION.

[Communicated to the Senate, January, 4, 1821.]  
To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the subscribers, auctioneers of the city of New York, respectfully sheweth: That

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your memorialists are engaged in an extensive business, whose general influence upon other branches of trade has of late become a subject of much controversy. Your honorable bodies were, at your last session, petitioned, by those who consider the interests of commerce as unfavorably affected by the great extent of auction sales, to adopt such restrictive measures as would tend to limit or suppress them. On the failure of the effort at that time, no means were left unattempted by which the discordant interests of the different classes of the community might be united in furtherance of this enterprise; and the application is now renewed, supported by more powerful influence, and urged with greater zeal.

Your memorialists respectfully disclaim the intention of urging their unimportant interests upon the attention of your honorable bodies. Their remonstrance is grounded upon principles distinct from any motives of private consideration, which, they are aware, would have but little influence on your decision. Their object in addressing you is to give such practical information as will lead to a just estimate of the nature of their business, and correct the misconceptions that may have prejudiced the inquiry.

The result of your deliberations on this important subject will materially affect the whole course of trade. A system which has gradually grown into importance; which has been improved, matured, and, they might almost say, perfected; which necessity originated, and acknowledged advantages have continued and enlarged, will be established as a safe and salutary medium of sale, or suppressed as a dangerous and pernicious agency. Your memorialists cheerfully submit their interests to the decision of your honorable bodies on the merits of this question, and would humbly suggest whether a subject of this moment should not be approached with respect and delicacy; whether it does not merit the most careful deliberation; and whether the argument and evidence that involve the interests of the whole should not outweigh the clamors of a few.

Your memorialists respectfully request the indulgent attention of your honorable bodies to a brief exposition of the general nature of their business, and of their manner of conducting it; and to the correctness of their representations they pledge their individual and collective respectability. Your honorable bodies will perceive, from this detail of their general practice, that there is nothing to warrant the charges of fraud and deception which have been urged against sales at auction, and that, in yielding to popular impressions derived from the objectionable mode of conducting the business which formerly prevailed, the opponents of the trade must have overlooked its actual importance and respectability. Were evidence necessary to disprove these calumnies, it would be found in the unlimited confidence reposed in your memorialists; and the slightest investigation would have corrected a position at variance with the very nature of the business.

Your memorialists, in the statement offered to your honorable bodies, have confined themselves to that branch of the trade which has been repre-

sented as productive of the most extensive injury—that is, the public sale of imported dry goods. Other commodities of every kind are sold under similar regulations; it would be obtrusive on your patience to particularize each.

Sales of dry goods are made at auction by the package or by the piece; and this is the only important distinction to be observed in all the varieties of the trade. Package sales, being more important in amount, and more attractive, by the assortments of merchandise they combine, excite most interest, and are attended with greatest competition. When the sale is of magnitude, it is generally advertised in the principal commercial cities, with an enumeration of the articles to be sold. Printed catalogues are prepared, specifying the term of credit, with the other conditions of sale, and detailing the contents of each package, the number of pieces, the varieties of quality, by number or otherwise, and the lengths; all of which are guaranteed to the purchasers. The widths are also in some instances specified, but always with a reservation expressed in the conditions of the sale, on the printed catalogues, or published by verbal explanation, that there is on that point no warranty, except that the goods not exhibited shall correspond in this as well as in every other respect with the samples shown. This exception is made to the general guarantee to the purchaser, as well to protect the seller from arbitrary and unreasonable claims as to establish the general rule that no description of width can be depended upon with as much security as the evidence of actual observation; it being well understood that British cotton goods are universally invoiced at more than their actual width, whether they are of the finest or most inferior quality, put up for public or private sale. The misrepresentation has become sanctioned by universal practice, and is innocent because notorious. It is no more supposed that goods invoiced as six-fourths of a yard, and measuring but a yard, will produce more in consequence of the exaggeration, than that the United States' duty will be calculated by the custom-house on the invoice width rather than upon the actual measurement.

The packages are arranged in lots corresponding with their numbers on the catalogue, and are exhibited sometimes two entire days before the sale, sometimes but one; the length of the exhibition being regulated by the magnitude of the sale. When the goods are prepared for inspection, the purchasers are invited by public notice in the papers to examine them. Where it is necessary for an advantageous examination, whole packages are opened and displayed; where it can be made with more convenience from samples, one or more pieces of each quality are exhibited; and where there are many packages exactly corresponding, one only is shown.

Pattern cards are exhibited displaying the assortment of colors, &c. The purchaser receives every information and facility that can contribute to his convenience and protect him from mistake. The goods are arranged with so much attention to the accommodation of the purchasers, that three or

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four hundred packages may be examined with care and accuracy in one day.

On the day of sale the purchasers assemble, each prepared with a catalogue marked with his estimate of the value of the articles wanted; a practice that not only guards the buyer against any disadvantageous excitement which competition naturally produces, and refers him to the deliberate opinion formed upon careful examination before the sale, but also promotes a general knowledge of merchandise in every variety, and creates a useful register of the fluctuations of the market, as these catalogues are generally preserved, with notes in the margin of the prices at which every article has been sold. At the commencement of the sale the conditions are recapitulated by the auctioneer, among which is a provision that no allowance will be made for damage or deficiency after the goods have left the city, (a regulation at once equitable and necessary,) as otherwise there would be no protection for the auctioneer in the settlement of his accounts, or for the seller against the fraudulent claims of strangers. This being, however, at all times a declared condition, the publicity of the rule insures the prompt examination of the goods. All merchandise sold at public auction is warranted by the auctioneer to be perfect in the manufacture, free from damage and imperfection, of the quantity specified, and of fair merchantable character, as regards the description of width and size. For this the auctioneer is held liable, as well as for every delusion calculated to deceive the senses or betray the judgment. The auctioneer is not only legally and by common practice is responsible for the correctness of his merchandise, but it is deemed a point of honor and of common justice to expose every art by which the interests of the purchaser would be sacrificed; and it is no uncommon thing for the buyer to acquire the first information of fraud from the auctioneer himself. The security to the purchaser is, however, necessarily subject to limitation; and public notice is always given that claims of all kinds must be made within a specified period. Immediate redress is obtained for deficiencies and damages reported within that time. The deficiencies, being properly certified, are promptly allowed: the damages are settled by return of the goods, or by the appraisal of disinterested persons appointed by the auctioneer and the purchaser. The period established for the required report of claims is a matter of convention between the auctioneer and the buyers at the sale; it being, however, understood that errors of all kinds which arise from the neglect or inaccuracy of the seller or his agent will at any time be corrected.

The nature of this business, by which sales are effected and accounts closed with so much despatch, absolutely requires that the stipulations specified should be rigidly enforced; and those regulations cannot be deemed disadvantageous by which care, punctuality, and promptitude are promoted.

Your memorialists have entered into a more particular detail of this part of their system, because the frauds of British agents and others are alleged as the prominent objection against auction sales.

Practical evidence is not wanting that imposition is most effectually guarded against by the very means which it is said encourage and promote it. The average amount of deduction made from package sales of British dry goods, for claims of every nature, will not equal the one-sixteenth of one per cent.; and it is rarely that any other causes of complaint occur than an accidental deficiency or an unavoidable damage. Claims based upon the suspicion or the discovery of fraud are so unusual, and would tend so much to the discredit of the proprietor of the goods, that many, if not all of your memorialists, would esteem it sufficient grounds to decline the transaction of further business with the person attempting the deceit. Your honorable bodies will perceive, from this simple statement, how groundless is the charge against auction sales of encouraging deception, that the evil which is made the basis of all the objection against them is but imaginary.

Your memorialists have detailed every part of their practice in the management of package sales which can be of any importance in establishing a correct understanding of the nature of their business. Rice sales are conducted on the same general principles, but differ in many particulars. Package sales are resorted to when entire cargoes are to be sold, or where the quantity of goods is too great to be disposed of in detail. Large assortments of merchandise are daily offered at the piece sales, where packages are opened, and the goods sold in small or large lots, as may most tend to the interest of the seller and the convenience of the purchaser. These sales are regular and systematic, being held by each auctioneer of extensive business on two or more specified days in each week, and are principally depended upon by the retailers as well as the larger dealers for their uniform supplies; they are held under the same implied regulations which govern sales by the package. Every article is opened and exhibited on shelves on the morning of the sale; a sample piece of every package, as it is offered by the auctioneer, is displayed upon a counter for examination, and several others distributed among the company in the original folds; the rest of the package, if of similar quality, is sold in order; but the same process takes place whenever any difference in value exists, or where the accommodation of the purchasers makes it necessary. Ample time is given during the sale to examine accurately every article as it is offered; and the purchaser, in every respect, is secured against error and imposition, by an open and unlimited display of the merchandise, and by the public proclamation of every circumstance known to the auctioneer which may tend to enhance or depreciate its value. Where concealment has been used by the proprietor of the goods, it is necessarily detected in their free exposure to inspection. Articles imported of a specific length, which are sold by the piece, are guaranteed of the usual length. By these means the purchaser has the double advantage of being allowed in the first instance to examine minutely, and of afterwards being relieved, if he has been unwarily deceived. It is a general regulation, that claims for deductions



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must be made the day after the sale; but they are generally allowed if notice is given before the settlement. These precautions operate only upon obvious damage, or upon deficiencies which are evident, or might with ease have been ascertained: they are intended to guard against the neglect of the purchaser, not to protect the frauds of the seller. In cases where it can be satisfactorily proved that goods have been put up with intent to deceive, no exertion is wanting on the part of the auctioneer to remedy any injury sustained in consequence.

A credit of three, four, or six months, is usually given on sales by the piece, where the amount purchased exceeds \$100, and approved security is always required by the auctioneer. Legal interest is allowed for cash payment; and men of limited means, by a combination of their purchases, secure the credit which is at all times convenient, and frequently necessary—their united responsibility being admitted for amounts for which either individual would not be accepted. When it is considered that these transactions take place daily, and that the supplies so obtained are essential to the support of numerous inferior establishments, the importance and value of the accommodation will be evident.

Your memorialists respectfully represent that the system of public sales, in theory combining advantages and facilities which establish its utility in extensive markets, is attended in practice with that despatch, accuracy, and convenience, which alone have extended its operations and confirmed its necessity. It has long been the honorable distinction of our commercial transactions, that frauds on the revenue are scarcely known; it cannot be doubted that auction sales have had an influence in establishing this character for mercantile purity, inasmuch as they encourage so strict and impartial an examination of all imported merchandise; that if imposition should elude the vigilance of custom-house officers, it cannot escape the industrious observation of a trading community, which is ever watchful to detect fraud, and prompt in proclaiming it. Let not, then, auction sales be charged with the encouragement of a species of iniquity which does not in truth exist, and which it is at least presumable they have had an influence in suppressing.

As the public revenue is guarded from injury by the intervention of auction sales, so also do the purchaser and consumer obtain, through this impartial medium, undoubted assurance of the security of their transactions. No artful mode of exhibition can be used to ensnare the inexperienced; the examination of goods is deliberate and cautious; and it is fully in the power of the buyer to protect himself against the possibility of error. He deals not, as in private contract, with one whose interest it is to deceive; his bargain is made with an unbiassed agent, whose interest it is to expose deception; and in all cases of injury he looks for redress from a disinterested source.

Goods of inferior quality, of cheap and temporary dye, of specious appearance, and slight fabric,

may be collected and exhibited as evidences of deception encouraged by auction sales.

Your memorialists respectfully represent that the evidence submitted by them to your honorable bodies must, if admitted as correct, be conclusive that merchandise exhibited for public sale cannot be estimated otherwise than at its actual value; or, if its apparent value be heightened by artificial means, that the responsibility of the auctioneer is pledged for the exposure of the artifice. What is it, then, that encourages the introduction into our market of articles of worthless fabric? Undoubtedly it must be their currency with the consumer, who has no immediate and direct dealings with the auctioneer, but obtains them from the jobber, who, himself perfectly aware of their intrinsic value, promotes their importation, by being the principal agent in their distribution. Your memorialists do not, by any means, intend to repel this charge by the imputation of unworthy motives to any other class of men; they are of opinion that goods of inferior fabric are necessary for the consumption of the country, and that the prices at which they are sold universally correspond with their value. The dressing, the glazing, and decorations employed in the preparation of inferior British manufactures for this and other markets are so notorious that they do not deceive the most inexperienced. These are not new inventions; nor have the humbler classes of the community but lately learned to clothe themselves in articles of cheap but showy fabric. The custom, however, is falling into disuse, and a taste for more simple and substantial merchandise begins to prevail. As far as regards the employment of fraud in the sale of goods through the medium of auctions, it presents itself so rarely to the observation of your memorialists that they cannot but doubt its prevalence, and would rather, from their experience, esteem it a matter of congratulation that the country merchant can come into the market in the confidence of ascertained good faith and fairness, than believe there can be reason to call either in question.

Your memorialists respectfully represent that the periodical exposure of large and general assortments of merchandise at public sale must have a tendency to promote the convenience of those who resort to the great commercial marts for their supplies, while it benefits the importer by the consequent increase of competition. If distant purchasers are attracted by public notice to large and valuable sales, where they may carefully examine the assortments that are offered, effect their purchases, and accomplish all their business in so short a period; if the holders of goods may, with so much despatch and certainty, complete the sale of whole invoices, at the current market prices, with full protection against all risk, and secure the advantages of prompt remittances, accommodations and benefits must result, that would at least counterbalance many evils, if, indeed, the existence of any had been proved. When new plans or principles are suggested, encouraged, and established; when men of different interests and views coincide in their adoption; when, after

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long and successful experiment, they are confirmed and become universal, it is a common and reasonable inference that their popularity is the result of admitted utility. On what other reasoning can it be explained, that, with a powerful interest in opposition, auctions have become, in most of our commercial cities, so considerable a medium of sale, that both classes of the mercantile community, the buyers and sellers, have united in supporting them? There can be no doubt that when public convenience no longer requires their interference, they will naturally and rapidly decline, without legislative interposition.

To those whose operations are conducted on an humble scale, the amount of whose purchases must necessarily be regulated by their daily sales, the suppression of auctions would be a fatal and distressing blow. This numerous class is dependent on public sales for their regular assortments; their responsibility, though not adequate to purchases of magnitude, is yet sufficient, by mutual union and support, for their small but frequent obligations; having an established credit, they are assisted in the advantageous employment of their capital, while their intercourse with the auctioneer gives him that constant information which is his best security, and insures the prudence of their engagements. In common with the country merchant, they owe to auctions the advantage of procuring their supplies without the necessity of intermediate profits, which are evidently a tax upon the consumer; they buy their goods at auction, and the fifteen or twenty per cent. which would have formed the profits of an intervening class is saved to that part of the population by whom the difference would be most sensibly felt. The country merchants go into the market on the best terms; the labor and difficulty of their purchases are reduced; they select from the daily assortments their necessary and regular supply, in quantities to suit their convenience. The price of commodities is equalized between the city and country consumer, and reduced to both; and the country gains in the saving of the time, the industry, and resources of her most valuable citizens. But it is not only in their immediate advantages that auctions are a public benefit; the influence of the great body of strangers, invited by their facilities, is profitably felt in every department of useful industry, and imparts activity and animation to every branch of trade.

If, then, the population of the country is through auctions, supplied with comforts and necessities at the cheapest rate; if a saving be effected in the most valuable resources of the nation, of what moment is it that a wealthy and influential class of men, who are provoked to hostility by the loss of a productive business, denounce auctions as a public calamity, and influence others to unite with them?

Your memorialists respectfully represent that it is to the influence of auction sales that our domestic manufactures owe their introduction to general notice and that encouragement and aid which has, in some measure, overcome the prejudices that opposed their advancement; that the valuable products of native industry, which public opinion

discouraged and condemned, were forced into use and estimation. To the manufacturer, the aid of the auction business, as a medium of sale, is almost indispensable. A law of our State has been obtained for their encouragement, by which the sale of domestic goods has been exempted from duty; and the great disproportion in amount between the public and private sales of our home manufactures sufficiently disproves the supposition that auctions operate to their disadvantage. Those manufacturing establishments whose operations are sustained by great resources may, perhaps, view with indifference the decision of this question; but to those of humbler means, whose business is almost exclusively transacted through the agency of auctioneers, it is of vast importance.

The small resources that would be quickly exhausted in limited enterprise are, by the aid of auctions, continued in active circulation. The distress consequent upon the failure of employment, during the tedious disposal of the merchandise and collection of the proceeds, is prevented by the promptitude of the sale and payments. The manufacturer is aided by the judgment and experience of his agent, which render his presence and attendance unnecessary; so that his goods are sold, the raw materials purchased, or his funds remitted, while there is no interruption to his industry; and the time and labor are saved which would be consumed by making sales of his merchandise in detail.

It is objected against auction sales that they have produced a revolution in the commerce of the country, and originated the difficulties which it is said now oppress it. Your memorialists would respectfully urge that the decline of business may be attributed to more probable and evident causes than the extension of auction sales, which has, in fact, resulted from the same circumstances that produced the decline in our commercial prosperity, and has tended greatly to relieve the general distress. It is to the extravagant introduction of foreign fabrics after the late war, when profitable sales allured to importations far exceeding the ordinary consumption; to the fall in the cost of goods abroad, when our merchants were overburdened with a heavy stock; to the injudicious extension of business at a period of hazard and uncertainty; to the loss of several important and profitable branches of trade, which employed our ships and seamen, and enriched our merchants and our country, but of which the universal restoration of peace throughout Europe deprived us; to the extensive scale on which the precarious experiment of domestic manufactures was commenced; and to the embarrassments of a disordered exchange, that commercial distress is to be referred; and practical men are aware that the interference of auction sales alone could have prevented a more extensive ruin, by their forced distribution of goods throughout the country, at a rate which relieved our importers, though at an admitted sacrifice. Such were the causes which produced the gradual decline of our commercial prosperity, and created that reaction in our mercantile situation from whose shock we are but

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now recovering. But on what grounds can it be urged that the present character of our trade is ruinous? The day of commercial disaster has passed away with the extravagant enterprise that produced it; and commerce, reviving, asks but freedom from restraint and liberty of action. A safe and advantageous internal trade employs the capital and industry of one part of the mercantile community; while our foreign intercourse, established upon secure and beneficial principles, invites the enterprise of the other. The mass of old goods, the surplus of former excessive importations, has been disposed of, and a field opened for a lucrative trade. Commercial credit and confidence are established; and though our own produce but scantily rewards the labor of the husbandman, (an evil certainly not attributable to auction sales,) yet foreign manufactures and produce generally have fallen proportionably, while the improvement of our domestic exchanges denotes a composed and settled state of things.

Our importers have, during the last season, enjoyed a trade that has well rewarded their enterprise. Our market has been enlivened by strangers from every quarter of the Union, and presented a scene of activity and successful industry that sufficiently relieves auctions from the charge of having effected a ruinous change in the character of our trade.

Your memorialists are represented as holding an important and dangerous monopoly. On the contrary, it is their influence in destroying the power of monopolizing that renders them of public service. They are a barrier to that inordinate warmth of speculation which is in direct opposition to the principles of a secure and moderate trade. They prevent the involvement of capital in the attempt to engross scarce and desirable articles, and those ruinous combinations of extensive dealers which frequently distress a whole community.

From these considerations, your memorialists respectfully remonstrate against the imposition of legislative restrictions upon a business whose advantages have been carefully thrown into the shade, while none but groundless objections have been urged against it. Public sales, in their general character, are no longer the resort of the necessitous, who are compelled to the sacrifice of property by the pressure of distress. Buyer and seller now meet on neutral ground for their mutual advantage; auctions are employed as the most secure and convenient medium for the sale and purchase of merchandise at the current market rate; and any addition to the present charges, however trifling, so far from being a productive source of public revenue, would force the business into another channel, introduce the practice of selling inconsiderable samples at auction, by which the prices of large parcels at private sale would be regulated, encourage frauds on the revenue, and operate directly as a tax upon the yeomanry of the country.

All which is respectfully submitted, &c.

FRANKLIN & MINTURN,

*And others.*

## BANK OF THE UNITED STATES.

[Communicated to the Senate, January 12, 1821.]

*To the honorable the Speaker and Members of the House of Representatives of the United States :*

The memorial of the President and Directors of the Bank of the United States, on the part of the stockholders of the said bank, respectfully sheweth :

That the institution of which they are managers is laboring under several grievances, not only injurious to the bank, but, as they respectfully conceive, to the nation also, which call for legislative relief. Some of these arise from the original omission of appropriate legal enactments; others, from certain provisions of the charter not suited to the condition and circumstances of the bank; and one, of a very important character, from a regulation concerning the fiscal receipts of the Government of the Union. For the remedy of these evils, the stockholders of the Bank of the United States can only look to Congress. Under the pledge of its sacred faith, and by its authority, the institution was established; and their natural refuge is, therefore, to the National Legislature for that relief and protection which the citizen has a right to claim of his Government. Of that body they know they can obtain nothing forbidden by the sound policy of the State; and could their interest dictate a request inconsistent with that policy, they would forbear to make it; but it is under a conviction of the justness and correctness of their requests, that, as citizens, and as a portion of those whose prosperity constitutes the public good, they respectfully ask the attention of Congress to the grievances under which they labor. They ask relief only if it be found to be consistent with the public welfare; and if it be, they will, they are convinced, not ask in vain; while they feel satisfied that they will be able to show to your honorable body not only that their claims are consistent with it, but that they are eminently calculated to advance and promote it.

Your petitioners are aware that strong prejudices have existed against the Bank of the United States, and certainly there has been abundant cause for more than prejudice against some of the acts which have marked the progress of the institution. But these acts have been offences not against the public or the Government, (except as it is a stockholder,) but against the innocent and undesigning stockholders, on whose behalf your petitioners now ask protection and relief. Offences of inferior turpitude and of inferior public injury, under almost all Governments, have been restrained by severe punishments. By the charter granted by the Congress of the Confederation to the Bank of North America, it was proposed to make some of these offences felony, and they were accordingly made felony by the several acts of the Legislature of Pennsylvania. But though, in the progressive experience of this institution, one example of infidelity, peculation, and fraud, has produced another, and that another and another, and though it has been defrauded of millions of dollars,

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it is yet entirely without the preventive protection of effective and appropriate penal laws. Will it be believed, too, that these acts, so injurious to the bank—that these losses, so afflictive to the innocent and suffering stockholders, have excited against the institution the prejudices which your petitioners now so anxiously deprecate? Yet it is a truth, that those are the sole causes of which your petitioners have any knowledge. For they cannot believe that it is considered a crime (at least not in the eyes of that Legislature from whom they purchased their privileges) for the stockholders to have associated together and to have placed their property under the protection of the most solemnly considered act that has marked the existence of the Government—an act, the validity of which all political denominations of men in the country, (at long intervals of time, giving ample room for reflection and investigation,) and all departments of the Government, have repeatedly and solemnly considered and confirmed. The usefulness of the bank to the Government and to the country, its purifying effect upon and sustaining aid of the currency, its support of the public credit, and its general benign influence on the interests of every solvent man and every solvent institution in the country, if not readily acknowledged, your petitioners believe can be satisfactorily shown. But, more effectually to dissipate the public prejudices, if any remain, your petitioners entreat your honorable body to inquire who now are the persons really interested in this much injured institution? They will be found to be, with few exceptions, original subscribers, who have continued to hold their stock, alike ignorant and innocent of the frauds to which their interests were a prey; or they are unfortunate purchasers, who, deceived by the false appearances which the affairs of the institution exhibited, gave an advance of from twenty to fifty per cent. on their purchases. Among those now interested are all the classes of human helplessness; and among the funds involved in the fate of the institution are those of charity and religion to no inconsiderable amount. Of these facts your petitioners are ready to give satisfactory proof to your honorable body, and crave to be permitted to do so, if it shall be doubted or deemed material.

Under these circumstances, your petitioners will proceed succinctly to state the particular objects on which they respectfully request relief and protection of Congress.

First. The charter provides that no director, except the president, shall be eligible for more than three years in four. This provision has, in practice, been found to deny to the bank the services of those men who are best qualified to administer its affairs with safety and profit to the institution. It is a provision not contained, your petitioners believe, in the charter of any other respectable banking institution. It was not contained in the charter of the former Bank of the United States; and it would seem that the provision of the charter which forbids the re-election of more than three-fourths of the directors in office, at the time of an annual election, (to which your petitioners

have no objection,) is calculated to effect all the ends of the embarrassing provision from which your petitioners now crave relief.

Second. At present there is no authority under the laws of Congress to punish any fraud, speculation, or violation of trust, committed by any of the officers of the bank or its offices; and on this point the State laws are also supposed to be deficient. Nor is there any adequate civil remedy for the bank against its faithless agents, who may the hour before their dismissal from office, while the investigations necessary to their removal indicate to them that result, take the property of the bank from its vaults and withhold it, spend it, and, if they please, give it in payment to their other creditors, in exclusion of the bank from which it has been thus purloined.

Third. Under the charter it has been doubted whether the bank has power to authorize the issuing of notes not signed by the president and countersigned by the cashier. The labor and the time necessary to sign notes for the bank and all its branches are much greater than either of those officers can bestow upon that object; and hence the bank has been unable to put in circulation a sufficient amount of notes of the smaller denominations, which the public most want, and which are best calculated to serve the interest of the bank. If authority were given to the board from time to time to appoint one or more persons to sign notes of the smaller denominations at the parent bank, under the superintendence and direction of the board and its principal officers, there would be no public risk, and it would afford all the aid which your petitioners desire on that point.

Fourth. Under the fourteenth section of the act incorporating the bank, the bills or notes of the bank originally made payable, or which shall have become payable on demand, are made receivable in all payments to the United States, unless otherwise directed by act of Congress. Under this regulation, the power of the bank to make its capital available, either for its own profit or the public good, is greatly abridged. The sphere of its circulation is limited to those places where it is least wanted, and made to exclude those where it would be eminently useful, while the whole currency of vast sections of the country is thereby frequently greatly embarrassed.

Your petitioners forbear to enter at this time into a further exposition of the grounds of their application for relief on these points; but respectfully hope and request that your honorable body will so dispose of the subject as to give them an opportunity of manifesting the justice, as it regards the bank, and the policy as it regards the public, of the relief and protection which they respectfully claim.

On behalf of the board of directors.

L. CHEVES, *President.*

Attest: THOS. WILSON, *Cashier.*

DOCUMENTS ACCOMPANYING THE MEMORIAL.

The Committee of the Bank of the United States beg leave respectfully to represent to the commit-

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tees of Congress, to whom the memorial of the bank has been referred, that the directors of the bank were forbidden, by the nature of the instrument, from developing in their memorial, at length and in detail, the particulars of the grievances under which the establishment labors, or the reasons which, in their opinion, authorize and recommend the measures of relief which they seek. To supply this deficiency, the committee now desire respectfully to bring before the committees of Congress some of those details and reasons, which they will do as briefly as the nature of the subject will permit. They will notice the several points in the order in which they are stated in the memorial.

*I. The ineligibility of directors who have served three years in succession.*

On this point, the committee beg leave to consider, 1st, The evil; 2d. The relief desired; 3d, The possible objections to that relief.

1. The memorial states, very truly, that the most competent and safe men cannot generally be induced to accept seats at the respective boards of the bank and its offices. The directors of such an institution ought to be, if possible, of undoubted credit, great experience, and extensive business. Neither integrity nor abstract talent, nor both, are enough. They ought, at least a considerable portion of them, to be men extensively engaged in business, and well acquainted with men of business. Such men not only are better qualified to govern the affairs of the bank, but give to it their own business, which is valuable, not merely on account of its extent, but also on account of its character, and attract to it numerous customers like themselves; and thus secure to it, in the aggregate, business to a greater extent, and of a better character, than men of a different description can do. Not to obtain the services of such men, is to fail in managing the institution to the best advantage, and to limit its usefulness and its benefits, both public and private. But, under the existing provisions of the charter, such men decline, too generally, the station of directors of the bank and its branches, when they can (as they always can) obtain seats at the boards of respectable local banks, from which they will not be periodically removed. The reasons of their preference are obvious. It is desirable with such men always to have seats at the boards of respectable banks; and to remove them periodically, is to suspend periodically the advantage which they seek. But, besides the motive of interest or convenience which may govern them, they have a much greater objection to the necessary removal required by the charter of the Bank of the United States, founded on the unpleasant feelings which it excites. The bank may succeed in a first appointment, but at the end of one year it displaces one-fourth. This offends those who see themselves removed, without admitting or believing that the preference which excludes them is just, and places them in a light of inferiority, which mortifies their pride, and often provokes their resentment; nor are these feelings assuaged or subdued by exhibiting to them

the original charter, which renders it necessary. This, however, it is admitted, must be borne to meet the demands of a prudent jealousy. But the evil increases almost in geometrical proportion, as the process of exclusion annually occurs, until, at the quadrennial appointments, it ends in a state of things absolutely incompatible with the good management of the bank; for as many of the best directors who were first appointed will be retained as the law permits, and, on the fourth appointment, the whole of them will be excluded; leaving but one-fourth of the preceding board, and those who compose that small portion will have had but one year's experience. Undoubtedly the bank has succeeded, in many instances, in procuring the services of fit men, under all these difficulties; but it has been the result of good fortune, and in opposition to causes which almost necessitate a contrary effect; and it is hoped the National Legislature, in its wisdom, will not see fit to leave such great national and private interests to the sport of chance.

The committee find it quite impossible fully to express the magnitude of the practical evil, which can only be understood and felt by marking attentively the operation and progress of it. In their humble opinion, the change desired is altogether indispensable to a prosperous and safe management of the bank.

2. The relief desired is simply that length of service, which may be considered as expressive of extraordinary usefulness and capacity, shall not create ineligibility. The request does not embrace the Government directors, nor any change in the provision which excludes a numerical proportion (one-fourth) of the board of the year preceding each appointment; guards which, the committee cannot doubt, will fully carry into effect the policy and object of the Legislature on this point.

3. It is not denied, the committee believe, that the change desired is calculated to promote the interest of the stockholders. But it is alleged that banks generally, and particularly this bank, are to be viewed in the double aspect of instruments of private advantage and national good, and that it ought to be shown that the tendency of the change is not likely to be injurious in the latter view. The committee do not hesitate to admit the justice of the remarks; but they entreat that it may be considered whether both ends are not attainable by the same means, and whether the means proposed are not the most fit to accomplish both. The desire of the stockholders is to have the institution managed by the most honest and most capable men that can be procured. If this end be attained, the national object will undoubtedly be attained. That commendable jealousy which has been before alluded to may cease to be wise if carried too far. If carried so far as to exclude the most fit men from the management of the bank and its branches, it will undoubtedly be carried too far. It may put the affairs of the institution into the hands of designing and unprincipled men; and against their arts the provision of ineligibility from length of service will be a security feeble than a cobweb. If, then, the committees of Con-

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gress shall be satisfied that the provision which renders the best men ineligible periodically is not calculated to keep the management in the hands of men of the highest integrity and capacity, it will follow that, to meet the public object, the change ought to be adopted. And as a matter of fact and experience, in the past management of the bank and its offices, it has failed to do so.

## II. *The punishment of frauds upon the bank by its officers.*

On the policy and propriety of punishing, by penal enactments, frauds and speculation committed on the bank by its officers, the committee deem it unnecessary to enlarge.

## III. *On the substitution of agents instead of the president and cashier to sign the notes of the bank of the lower denominations.*

On this point also the committee deem it unnecessary to dwell at much length. The request now made is unlike that which was some time since made to Congress and refused. That was to delegate the authority required to the officers of the branches as well as those of the bank. The present is merely to authorize other persons than the president and cashier, who shall be, however, equally responsible agents, to act under the immediate eye of the mother bank, and only to a limited extent. It has been suggested that the authority which is desired might diminish the securities against counterfeiting. This would be true if the officers designated were to be temporary or numerous; but the objection will be entirely removed if they be not more numerous, and be as permanent in their appointments as the officers who now discharge the same duties. All this the bank, with a view to its own interest and security, would order, should it not be prescribed by law, which, however, may be done. That the authority desired may not be misunderstood, the committee will remark, (though it is probably unnecessary,) that it is not desired that the bank shall be allowed to issue notes of lower denominations than those now authorized by the charter, nor is it desired that the substituted agents shall be allowed to sign notes of a higher denomination than twenty dollars. Indeed, the power may be limited to those of the denomination of ten dollars and under. Or, if it shall be deemed any additional security, or a preferable plan, to abolish entirely the authority of the president and cashier on this point, and require all the notes of the bank and its offices to be signed by the substituted agents, there can be no objection to it on the part of the bank. Under these guards, it will surely appear that there can be no objection of public policy to this request of the bank. But the grant of it is required by the public interest as well as the convenience of the bank. It will scarcely be questioned that the extension of the circulation of the notes of the Bank of the United States of the lower denominations would be a public benefit. This, however, cannot be effected, if it be required that the president and cashier shall sign each note. The duties of each of these officers, in relation to the mother bank alone, in-

cluding the transfer department of the bank and the loan office, and a complicated voluminous daily correspondence, are greater than are assigned to any like officers in the United States; but when to these are added a minute and vigilant superintendence of the business, accounts, and general management of seventeen offices, the aggregate constitutes a mass of labor that can leave no time for signing notes.

## IV. *Circulation of the notes of the Bank of the United States.*

No subject connected with the currency can be of more importance than the circulation of the notes of the Bank of the United States. They may be made infinitely useful in purifying, sustaining, and increasing the sound currency of the Union. But they are but partially so at present; and it is not in the power of the bank, so long as they are receivable by the Government at all points where they may be tendered, instead of being received only where they may be payable, to make them co-extensively useful with the Union. Thus, for example, the notes of the Western and Southern offices are receivable in Philadelphia, New York, Boston, &c., in payment of all debts to the Government. The bank is not bound to pay to the Government except where its notes are payable, though they may be received elsewhere; but it is bound to transfer the funds of the Government from place to place, and could only gain a little time, perhaps with inconvenience to the Government, by refusing to pay where they may be received. It has, accordingly, always (except for a moment, when the safety of the bank rendered it necessary to ask the time to which it is entitled,) paid where the notes were received, without reference to the places where they were payable. The result is very embarrassing to the bank, and frequently very distressing to the community. There are some facts which it will be proper to state, before we present a more detailed view of the evil.

The exchanges between the West and the Atlantic are always against the former, which is a large debtor habitually to the latter. The exchanges between the North and the South run for one portion of the year against the latter, and for another in its favor. When the exchanges are unfavorable to the South and West, the notes of the Southern and Western branches all pass to the North, as a substitute for exchange. They are equal to cash, or very nearly so, in all the principal cities north of the Potomac. They are so, because they are receivable in payment of the duties to the Government, the portion of which payable to the north of the Potomac in any quarter of the fiscal year of 1819 was, taking that year as an example, nearly as much as the whole circulation of the Bank of the United States at the same time, and, of course, kept up a steady demand for the notes of the Southern and Western branches. The union of this demand with the course of exchanges draws the whole of the notes of the Western offices to the Atlantic, and, at particular seasons of the year, the greater part of the notes of the Southern

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offices to the North. The revenue collected to the South being comparatively small, there can never be any material reflux of their notes, because they will be absorbed by the Northern demand before the exchanges turn; and the balance of payments being always against the West, there is never any towards that quarter. We will now proceed to enumerate some of the evils resulting from the receipt of the notes of the bank and its branches, in this manner, and under these circumstances.

1st. It greatly deranges and distresses the money market, both of the places where the notes are received and where they are payable. The Bank at Philadelphia, and the offices at New York and Boston, did not receive less than between five and six millions of the notes of the offices South and West of them in the short period of fourteen months, exclusive of the notes of the office at Washington. These points were obliged to pay the Government the amount of these notes, and in vain sought for speedy reimbursements from the offices where they were payable. The state of the exchanges, which caused this flux of their notes, created an inability to reimburse the offices which had received them until the exchanges turned. The offices receiving them, were, of necessity, obliged to curtail their business suddenly, to provide the means of paying them. Accordingly, the curtailments at Philadelphia, New York, and Boston, within the same period, amounted to upwards of four and a half millions of dollars, and exhausted almost the whole of the capital placed at these points. The capital of New York and Boston united was, at some periods, less than nothing. What distress and embarrassment must have been caused by these circumstances will easily be conceived by those who have reflected on the nature and effects of the sudden withdrawal of a large portion of the active capital of a trading community.

The evil suffered in the community where the notes were thus received and paid was not all. The offices whose notes were thus received and paid were necessarily called upon to provide the means of reimbursement, and curtailments to a corresponding amount were ordered in them, and like distress and embarrassment produced in the communities where they were located. Double the amount of the notes thus circulated was, in this way, withdrawn from use to provide for their payment. The aggregate curtailments in the fourteen months before alluded to (from 1st September, 1818, to 1st November, 1819) were upwards of ten and a half millions of dollars; and, it is confidently believed, it would not have been necessary to reduce the discounts of the bank a single cent but for this cause. When these reductions commenced, the discounts were very moderate for the capital of the bank. They did not amount to \$42,000,000.

Nor is the extent of the distress and embarrassment measured by the immediate effects of the reduction of the discounts of the bank and its branches. These reductions, in their operation, throw back upon the State banks a portion of their

circulation, and reduce their deposits; and they also are obliged to curtail their business, and add to the general mass of distress.

The uncertain liability of the bank and its branches, (as each is, in a certain degree, liable to pay the notes of all the rest,) and the perpetual alteration of the capital of each, by paying the notes of the others, and having its notes paid by them, put it beyond the power of calculation to determine the extent of business which can be safely done, and leave the bank to vacillate between the hazards of rashness and the fruitless results of a torpid prudence. To-day a branch shall have a million of capital, and in three months it may be without a cent.

2d. It diminishes and deranges the currency of the whole country. The bank was under the necessity, to protect itself from danger, and to avoid charging itself to an unlimited amount with the cost of adverse exchanges, to forbid the offices with which the exchanges were unfavorable to issue their notes. It, however, issued its own notes; and the offices against which the exchanges did not run issued their notes without any limit but that of the demand; yet the circulation of the bank was, by this cause, greatly decreased. Thus, for example, in the short space of five months (from the 1st April, 1819, to the 30th August, 1819) it was reduced from \$6,045,428 to \$3,838,386.

This, however, does not show the entire extent of the abstraction from the currency which this cause produces. Let it be supposed that the circulation of the bank is four millions of dollars and that one-half of it has been issued by offices to the South and West, and is in use for the purposes of being remitted to the North and East. It is thereby as much taken out of the currency as if it were destroyed; and it leaves only two millions of currency furnished by the bank. But the bank will, probably, have four millions of specie in its vaults; and it cannot safely have less, under these peculiar circumstances: this sum, also, is withdrawn from circulation. Thus, the bank, not by its fault, but by the necessity which is imposed upon it, has withdrawn four millions of specie from the currency, and has given a substitute, in its notes, only to the amount of two millions. In this view, the currency has been diminished two millions. But even this is not the worst view of it. Let us suppose that the notes of the bank and its branches could not be converted into bills of exchange, (and there is no doubt, it is presumed, that, with its high credit, it could easily do what many local banks have accomplished,) it could circulate two dollars of its bills for every dollar it should have in its vaults. Then it is supposed to have four millions of dollars in its vaults, and could circulate eight millions of its notes, which would be equal to gold and silver. It then would have added four millions to the currency, while, at present, it diminishes it to the amount of two millions: making a practical difference of no less than six millions in the sound currency of the country. The view may even be extended, because the Bank of the United States could, had

its capital not been deranged by this very cause, have given a greater addition of the currency with the greatest ease and safety, if a demand had existed for it, by increasing its specie. No evil can be greater than a decreasing currency. In the words of a great man, "poverty, and beggary, and sloth," follow in its train.

But this evil of a decreasing currency will not occur as a rare calamity once, perhaps, in a century; but will be renewed with every flux and reflux of the exchanges between the different portions of the country, as long as the bills of the Bank of the United States are thus receivable by the Government.

3d. It makes the necessary public burdens, in some instances, doubly oppressive. In all the States south of Virginia, and in nearly, if not all, the Western States, the Government of the United States does not expend half the revenue it collects; the surplus must be remitted to other points, where it is necessarily to be expended. This draws so much of the capital of those States from them, and adds it to the capital of another—New York, for example. This is not a subject of complaint, though it is certainly an evil. But when the revenue of New York is collected in the notes of the offices of the South and West, perhaps to an equal amount, and drawn from the necessary currency of these portions of the country, the evil produced by the remittance of the surplus revenue becomes intolerable, because the means of making it have been taken away. The capital of these States is fettered by the necessary curtailments of their banks; their currency is diminished, and that state of things which is called a scarcity of money is produced; exchange rises, and, when the revenue is to be remitted, the means of doing it no longer exist.

These are the principal disadvantages arising from the receipt by the Government of the notes of the bank and its offices where they are not payable. There are many others, some of which are scarcely inferior in importance. Among them, none, perhaps, are more worthy of notice than the disadvantages suffered in those very particulars in which it is supposed the present practice is beneficial to the Government and the country.

The following are the advantages which have been supposed to result from the existing regulation:

1st. It is supposed that the notes form, as at present received, a currency coextensive in its sphere with the limits of the Union.

2d. That they form a substitute for exchange, free of the usual expense.

3d. That they form a sound currency, especially calculated for the payment of debts to the Government.

1st. The notes of the bank and its officers certainly do possess, as at present received, a credit coextensive with the limits of the Union, but they are by no means invariably of their nominal value at all times and places. From the middle of December to the middle of March or April the notes of the bank and the Northern offices will generally be at a discount in the South. And there

will be many other instances of their being under their nominal value. They are, however, always only a commodity where they are not payable, and their price will depend on the quantity in market and the demand for them; the demand for them will depend on the amount of revenue payable in the place where they are held compared with the quantity in the market. They will serve no purpose of a general currency against the current of exchange; nor will they ever, under any circumstances, serve the purpose of a currency, in a correct sense, where they are not payable. They will be at par, bear a premium, or be below par, according to circumstances. Even on the spot where they are issued they will frequently bear a premium, unless they are freely issued. In Ohio, for example, they are said to have commanded fifty per cent. premium in the current money of the State. But the overruling difficulty will be that the bank, in its own defence, will not issue its notes where they are to be used as a substitute for exchange; and it is only when they can be thus advantageously used that they are supposed to serve the purpose of general currency. But this will be more properly considered under the next head.

For one object of a general currency, (the only one for which such a currency is either desirable or practicable,) the Bank of the United States has furnished the most admirable expedient that has ever existed in any country—we mean a currency for the use of travellers. By making its five dollar bills payable at all its branches, there is no spot in the twenty-two States of the Union at which they will not be preferable to gold and silver; and there will be few places where they will not be instantly convertible into these metals. More in this way need not be done than to multiply them, which the bank will no doubt do to the extent of the demand, if the receipt of its other notes by the Government, at all points, be not allowed to continue embarrassments which may lessen or destroy its ability to do so.

2d. They do serve the purpose of exchange, and, if they can be drawn directly from the bank or its offices, they will of course be free of the usual expense of exchange. But this very rarely happens. The person who uses them as exchange has generally to pay to some low or cunning dealer in money a premium higher than a just premium on exchange in its accustomed form. And though there was, until the last twenty months, no restraint on the issue of notes by the offices, the bank, unless it choose wantonly to waste the capital of the stockholders, cannot, and will not in future, suffer its notes, under an adverse state of exchange, to be issued at one office, to create a demand at another, where money is from five to ten per cent. more valuable. This is no part of the duty of the bank, and its burdens are sufficiently great without adding to them. The bank will, with a view to its own just interests, furnish exchange, whenever and wherever it may have the ability to do so, at fair and reasonable rates.

Exchange, like all other mercantile transactions, but in a more especial degree, depends for its fair



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operation on an unembarrassed money market, on a well-adjusted currency, and on a state of established confidence. We have seen that the receipt by the Government of the notes of the bank and its branches where they are not payable has a powerful effect in distressing the money market, diminishing the currency, and impairing the pecuniary ability of the States from whence they are drawn to be used as a substitute for exchange; and we must therefore infer that it is a most unhappy means of supplying or facilitating exchanges. But why should the bank furnish exchange free of expense? Is not the premium of exchange as justly chargeable on the operations of commerce as any other charge? Why make the bank pay the price of exchange on the funds with which a cargo may be purchased in South Carolina or Georgia, and not the freight? Why should a desire exist—how can a desire justly exist—to throw this charge on the stockholders of the Bank of the United States, rather than on any other portion of the people? They are certainly, in a very peculiar degree, entitled to the protection of the General Government. With it the bank originated. It was in the confidence of its strength, of its faith, and of its wisdom, that the present holders subscribed for or bought the stock they hold. There was, unfortunately, gross and unprincipled gambling in the stock, but not by those who hold it. Few of them would probably have become interested in the institution, had it not been for the high degree of confidence they placed in the management of an establishment which was under the immediate eye and protection of the Government. The present holders are either original subscribers, innocent of the frauds and speculations which have been so justly the subject of reprobation; or they are injured persons, who have given twenty, thirty, forty, and fifty per cent. advance for the stock. If this fact be doubted, let it be inquired into.

If the stock list be regarded, it will be seen that large portions of the stock are held by all the classes of human helplessness—by the aged and infirm, by the widow and the infant, and by charitable and religious institutions. Are they fit subjects to be charged with the burdens of commerce, and with the equalizing of the exchanges? The people of the United States, generally, are direct owners of one-fifth part of this stock. Is there any reason why they should bear one-fifth of this particular charge on commerce? Is this charge to be imposed on the bank, on the ground of enormous profits? That, unfortunately, cannot be pretended. The present stockholders have been heavy losers, and have had their capital diminished; while the bank has paid large pecuniary considerations, for its privileges, and has rendered invaluable services to the Government. On what ground, then, it is respectfully asked, can a desire exist to heap so unreasonable a burden on this institution? But these pages are not intended to supplicate an exemption from any obligation that can be legally imposed, though it be harsh or distressing, if it have any foundation in public policy. If it have any foundation in public policy, disregard that fostering protection of the Govern-

ment, which the citizens ought to be taught to expect, and which attracted, no doubt, the honest portion of the stockholders to a bank which was national, in which the Government was a partner, and in the management of which it largely participates through its directors. Spare not the fund of charity, the sacred deposit of the church, the bread of the hungry, or the pittance of the wretched. Let these hallowed funds be made to bear exclusively the burden of paying the expense of a common mercantile operation, if they can be made to serve the end; but, before this sacrifice be made, (which surely cannot be made without some compunctious visitations,) let us dispassionately inquire, can they be made to serve the purpose intended?

We have said, that if a local circulation were allowed to the bank, it would furnish exchange on fairer terms, and at a lower rate, than is now paid for its notes; that its own interest would limit it to fair and moderate premiums; and that these would be enforced by an unembarrassed money market, a well adjusted currency, and an established confidence. All this we conceive to be demonstrable. Some, however, think differently, and suppose that private competition would be unavailing against the Bank of the United States, and that it might demand exorbitant premiums; but, perceiving the evils of driving the bank out of the exchange market, and of the derangements of the money and currency, which we have pointed out, they agree that, if a maximum of exchange were established, the notes of the bank should cease to be receivable, as at present. The first answer to this suggestion is, that it is absolutely impracticable. What would be the maximum of exchange, if the peace of the country were to become doubtful, and under a great variety of other circumstances, which may be easily imagined? It is useless to multiply examples; the point is too clear to require discussion: forty and fifty per cent. have been paid in the current medium in some parts of the Western States for the notes of the branches of the Bank of the United States. If the notes of the branches had been made a local currency from their first establishment, the business of the bank would have been under control, and would, no doubt, have been so regulated as to have judiciously distributed the capital of the bank. Under such circumstances, for example, there is no doubt it would have been the interest of the bank to have sold exchange in the Western States, on the Atlantic, at a light premium, and to have received its payment by another operation of exchange on New Orleans, where the products of the Western States find their market. The premium of exchange, whatever it may at any time be, will be fixed by uncontrollable causes, which are perfectly just, and almost perfectly accurate. It must inevitably be as equitably and correctly fixed as the price of wheat, cotton, tobacco, rice, or any other commodity. It is an utter misconception of the principles of exchange to suppose that the Bank of the United States, with any capital, or any means, for terms of any material duration, could exact an unreasonable pre-

mium, if the currency be sound. If that be unsound, there is no basis for fair dealing, and it is idle to project remedies against unfair practices. The discerning will easily perceive, and the candid will readily admit, that the bank is more likely to suffer than gain in such a state of things; but if the currency be sound, the rates of exchange can never be excessive, because they can never materially, and for any considerable length of time, exceed the expense, risk, and loss of interest incurred by the transportation of specie. The person desirous of purchasing exchange will either have the specie in his hands, or will receive it on demand from some bank whose notes he holds. Who, then, will be guilty of the folly of giving much more than the expense of transportation, &c.? There will be competition, too, wherever there is gain, which will be carried on as far, and continued as long, as it continues to be gainful. It is true that exchanges between some of the States have, for a considerable time past, been very high. But wherever it was high, the currency was in a greater or less degree unsound; the banks were curtailing, and the currency decreasing. These causes could produce no other result. Had these causes not existed, the premiums of exchange would not have been high. In some places, though the banks pretended to pay specie for their notes, they evaded it in effect. Let specie be paid promptly and bona fide to-morrow in places where exchange is high, and the premiums of exchange will immediately fall to rates founded on the charges and risk of transporting specie, and a trifle, perhaps, beyond their aggregate. That this is an inevitable result, it is believed, has never been denied. In England, it was denied that the adverse state of exchanges which that country suffered while its notes were inconvertible depended on the suspension of cash payments; but it was never denied that, if the currency could at any time be converted into the precious metals, the rates would be governed by the cost of transportation, &c. Let the currency be sound, and the premiums of exchange must be precisely just. To attempt to equalize exchange, or to place the charge of it on any other operations than those which shall cause a demand for it, will be as impracticable as it will be unjust.

3d. The next ground on which the receipt of the notes of the Bank of the United States, at all points, is considered politic, is, that they form a sound currency, in which the revenue may be collected. Any discrimination between the currency in which the demands of the Government may be collected, and the general currency of the country, is founded on a very limited view of the subject. The Government should never wish to collect its revenue in a better currency than that which its policy provides, and its laws ordain, for the purposes of the citizen. It is a distinction which can never be made with justice. The object of the Government should always be to establish a sound currency for the general use of society, in the advantages of which the revenue should only incidentally participate. If the Government does not insure a sound currency to its citizens, it can have no right

to demand of them a sound currency. They can only pay in such currency as they are enabled to procure. The sole inquiry, then, ought to be, whether the state of the currency is benefited or injured by the present regulation. This inquiry we have sufficiently attended to already. But we will go further, and show that the advantage supposed to be gained in the collection of the revenue is not gained; that it is, on the contrary, defeated by the very regulation which is supposed to afford it. Where the notes of the Bank of the United States will circulate as a currency, they are thrown out in abundance, and, in common with other good currency, are used in payment of the revenue. But where this is the case, there is no bad currency, and they yield no great immediate and local advantage that is not afforded by other notes. They, no doubt, keep the others in the sound state in which they are found, and that is probably what was really expected when it was supposed they would enable the Government to collect its revenue in a sound currency: that construction would be most consistent with good sense and sound policy. But if the object was that they should furnish a currency in which the revenue might be collected where there was no other good currency, certainly that object is frustrated by the present regulation. In the Western States, for example, the currency is unsound, and the regulation ought to have a tendency to keep the notes of the Bank of the United States there, that the revenue might be collected in them. But the tendency of it is directly the contrary; it is to remove them to a returnless distance from the place where they are wanted.

There is a mistake on this subject, in relation to the local banks, which it may be fit to notice. It is apprehended by some, that, by rendering the circulation of the offices of the Bank of the United States in a certain degree local, it would diminish and embarrass the circulation of the local banks. If this were true it would hardly be a sufficient reason to contravene an act of national policy, laying the claims of the Bank of the United States, merely in its corporate capacity, entirely out of the question; but the effect would be directly contrary where the regulation proposed would be at all operative. To the north of the Potomac it would have no operation at all, or none worth consideration; there, the bills of the Bank of the United States now remain, in common with the notes of the local banks, in a local circulation, without inconvenience to these banks, and with all the benefits which were expected from the establishment of the bank to the community. In the South and West, the change proposed, far from being injurious to the local banks, would be greatly beneficial. It is no doubt true, that, could they be permitted to furnish the whole circulation, and have that undisturbed by the receipts and remittances of the revenue, they would be gainers by the exclusion of the notes of the Bank of the United States; but both these advantages they cannot enjoy. If the revenue be collected exclusively in their notes, because the Bank of the United States shall be unable to issue any, they must pay the whole to that bank, as the pub-

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lic receiver, in specie; or it must remain their creditor, and pay the Government the amount without receiving it. There is no alternative. Not being thrown back again into circulation, the masses of their notes, thus withdrawn in the heavy collections of the Government, will not only diminish the aggregate of the general circulation, to the great injury of the country, but will, from destroying its equilibrium, and perverting the operation of its principles, actually reduce the circulation of those banks below the probable amount which they would enjoy in a joint and equally protected participation in the privilege with the Bank of the United States. This embarrassment has been felt by many of the local banks to the South, which have complained that the branches of the Bank of the United States did not issue their notes to relieve them from it; not perceiving that, had they done so, these notes would immediately have been converted into instruments of exchange, and, instead of relieving them, would have increased the evil, by adding to the embarrassments of the moneyed concerns of the community.

It is not true, as has been frequently but falsely alleged, that the Bank of the United States has any hostility to the local banks; and this committee is ready to demonstrate to the committees of Congress, if particular instances shall be stated, so as to render the subject susceptible of proof, that this is a calumny without the most slender foundation; and, on the contrary, they are ready to show signal instances in which it has fostered and sustained the local institutions. The Bank of the United States has always acted under the impression that its own prosperity was inseparably connected with the general prosperity of the country. It is needless, therefore, to say that the change proposed is not intended (while it is very obvious it will have a contrary effect) to lessen the advantages of the local institutions. Its object is to use its privileges with fair and reasonable advantage, in a manner which will not impair, but advance the public good. The regulation of which it complains is practically equivalent to an absolute prohibition to issue any notes in the Western States, and to a like prohibition to issue them to the South of the Potomac, during six months in the year, while the collection of the revenue, the convenience of all classes of the people in these quarters of the Union, and the restoration and perpetuation of a sound currency, all require them to be issued largely and diffused widely.

The remedy for all these evils is to make the notes receivable by the Government only where they are payable. To this general rule, without materially impeding the attainment of the object, there may be some exceptions. Indeed, these exceptions may even advance the general object, while they will serve other important purposes. The following may be safely allowed:

1. Let the notes of the parent bank be received everywhere.
2. Let the notes of the office at Washington be received everywhere.
3. Let all the notes of the bank and its offices

be received in the States and Territories where the bank has no establishment.

4. Let the five-dollar bills of the bank and all the offices be received everywhere.

These exceptions ought to satisfy the advocates of the present regulation, because they will much more effectually than the general rule carry their views into effect, while they will produce few or none of the evils resulting from that regulation. The privilege given to the notes of the office at Washington alone will be, in itself, a much greater advantage to the Government and its agents than all the conceivable advantages (the evils aside) of the present regulation. It will render unnecessary a direct and sudden draught of the Government funds from the places where they may have been collected, to Washington, where they will be wanted; and it will save the bank the trouble and expense, and the bank and Government the odium of the transfer. The exception of five-dollar notes will confirm and enforce the existing regulation of the bank which directs the receipt and payment of notes of this denomination, as well of the bank as of the offices, at all the establishments of the bank. The proposed change rests entirely with the Government. It affects no part of the charter. The existing rule is a regulation entirely under the control of Congress. Let it, therefore, be remembered, that if the proposed change be made, and it be found not to be useful and salutary, it may be repealed at the next, or any other session of Congress; it will confer no right upon the bank. Is it not, then, manifest that great evils exist from the present regulation? Is there any concomitant advantage, except that enjoyed by the lowest class of money-dealers? Is there any possible danger that can result from a change by way of experiment? May we not hope, then, that the experiment may be made?

Finally, the committee beg leave to remark that it is not true, as has been represented, that the bank is asking new privileges of Congress. Is it a new privilege which would remove a restraint whose operation denies to the institution the services of safe and competent managers? Is it a new privilege which would punish great crimes with adequate punishments? Is it a new privilege which would merely substitute one class of agents in the place of another for the discharge of a duty consisting entirely of manual labor? In fine, is it a new privilege to the bank for the Government not to receive its notes in a manner productive of great public evil, because it will combine a benefit to the bank with the public good? Are they not mere modifications of existing privileges, or the exclusive exercise by Government of its own right, for the public advantage?

The statement annexed, marked A, will show the evil and embarrassing effects of the existing regulation, when the notes of the offices to the South and West were freely issued, on the distribution of the capital of the bank. It will appear from it, that, at the date of that statement, notwithstanding great exertions had been made to place and keep capital at Boston, the effect not only failed, but that the office at that place had

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less than no capital by \$372,000—that is to say, that the bank was indebted to it that sum; and that the office established in the great commercial city of New York had no more than \$245,000 of the immense capital of the bank.

The statement annexed marked B will show the immense amount of the branch notes which have been redeemed where they were not payable.

Accompanying this communication the committee of Congress will also receive a list of the stockholders\* of the bank on the 1st October, 1820, which will enable them to see who are now the stockholders; from which it will, it is believed, appear that they have been justly characterized by the memorial.

## A.

*Distribution of the capital of the Bank of the United States, May 28, 1819.*

Portsmouth	-	-	-	-	\$117,678	70
Providence	-	-	-	-	335,208	54
Middletown	-	-	-	-	255,985	11
New York	-	-	-	-	245,287	81
Baltimore	-	-	-	-	5,646,325	28
Washington	-	-	-	-	555,737	97
Richmond	-	-	-	-	1,760,502	88
Norfolk	-	-	-	-	861,764	16
Fayetteville	-	-	-	-	677,963	81
Charleston	-	-	-	-	1,935,042	35
Savannah	-	-	-	-	1,420,543	45

New Orleans	-	-	-	-	-	1,664,596	47
Lexington	-	-	-	-	-	1,502,388	44
Cincinnati	-	-	-	-	-	2,400,987	30
Louisville	-	-	-	-	-	1,129,009	00
Chillicothe	-	-	-	-	-	649,858	83
Pittsburg	-	-	-	-	-	769,031	36
Philadelphia	-	-	-	-	\$13,418,742	96	
Deduct this sum, due to the Boston office					372,825	79	

This statement of the capital at Philadelphia is merely nominal, if considered as a capital for the proper operations of banking, as in the above sum are embraced all the property and debts due the institution, including therein the five per cent. stock which the Government subscribed, debts due by State banks, &c.

It is proper to add, that, since the date of this statement, the necessary restraint put upon the issues of the notes of the offices to the South, at seasons when the exchanges are unfavorable to them, and upon those of the West, at all seasons, the exchanges being always unfavorable to them, has enabled the bank, by great efforts and great vigilance, to place and keep adequate capitals at all points.

## B.

*The following sums, in branch notes, received at the Bank of the United States, have been disposed of as follows :*

Offices.	Returned to offices.	Notes of offices destroyed.	Notes of offices on hand.	Total redeemed at parent bank.
Portsmouth	25,310	100	2,775	28,185
Boston	32,575	142,655	3,215	178,445
Providence	21,640	570	1,780	23,990
Middletown	42,920	920	10,885	54,225
New York	373,490	812,330	29,240	1,215,060
Baltimore	2,111,405	214,540	1,730	2,327,675
Washington	3,467,370	28,375	54,885	3,550,630
Norfolk	451,550	13,520	18,725	483,795
Richmond	922,439	9,610	16,120	948,169
Fayetteville	301,308	259,980	7,190	568,478
Charleston	611,799	128,580	12,850	753,229
Savannah	969,055	479,440	11,730	1,460,225
New Orleans	420,115	195,010	30,040	645,165
Louisville	27,550	222,210	94,340	344,100
Lexington	170,280	379,500	84,800	634,580
Cincinnati	198,000	492,540	119,010	809,550
Chillicothe	26,000	227,360	33,850	287,210
Pittsburg	248,750	290,790	41,410	580,950
	\$10,421,556	\$3,898,030	\$574,075	\$14,893,661

\* The list is omitted.

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To the foregoing amount of	-	\$14,893,661 00
there ought to be added the following amount of post notes issued by the parent bank, and destroyed, because they were used in the Southern and Western States in lieu of branch notes	-	5,528,981 96
Amount redeemed	-	\$20,422,642 96

The sum thus redeemed is exclusive of considerable sums in branch notes, received at offices other than those which issued them, and which were not returned through the parent bank, but directly from the offices which redeemed them to the offices which had issued them.

JAMES HOUSTON,  
*Assistant Cashier.*

BANK U. S., Dec. 7, 1820.

## PROTECTION TO MANUFACTURES.

[Communicated to the House, January 15, 1821.]

Mr. BALDWIN, from the Committee on Manufactures, to whom had been referred the various memorials praying for and remonstrating against an increase of the duties on imports, respectfully reported:

That they have directed their best attention to the subjects submitted to them by the House, and feel it their duty to state their views fully and freely, so that it may be enabled to act with promptitude. It is certainly time that the propriety of extending protection to the objects now claiming it should be finally settled; the nation expects, and their interest demands it.

It is not a matter of very great consolation to the committee to know that, at the end of thirty years of its operation, this Government find its debt increased \$20,000,000, and its revenue inadequate to its expenditure; the national domain impaired, and \$20,000,000 of its proceeds expended; \$35,000,000 drawn from the people by internal taxation, \$341,000,000 by impost, yet the public Treasury dependent on loans; in profound peace, and without any national calamity, the country embarrassed with debts, and real estate under rapid depreciation; the markets of agriculture, the pursuits of manufactures, diminished and declining; commerce struggling, not to retain the carrying the produce of other countries, but our own. There is no national interest which is in a healthful, thriving condition; the nation at large is not so; the operations of the Government and individuals alike labor under difficulties which are felt by all, and for which some remedy must be discovered. It is not a common occurrence in the history of nations, that in peace the people should call on the Government to relieve their distresses; the Government reciprocate the call, by asking the people to relieve theirs; the resources of both exhausted; both marching to poverty or wealth (as

opinions may vary) in the same road, on the same principles; their expenses exceeding their receipts; unable to discover, or unwilling to develop, new sources of wealth or industry; pursuing theories too far, or not far enough; too much or too little guided by the opinion of foreign authors and reviewers or domestic statesmen, (as each mind may fancy;) unmindful of the policy which has secured the great interests of other nations, or unable to devise a better for ours; too unwise to profit by the lessons of experience; too wise to need them, or unable to agree as to their dictates—we are certainly not at that point of public or private prosperity which can be a source of satisfaction. Others “rejoice at the beams of peace” which bring their attendant blessings; but, if the people of this country may judge of the five next by the five last years, war will be peace to them. Five years of peace on the continent of Europe have nearly repaired the ravages of twenty-five years of war; four years of peace in this authorized the official declaration “that but few examples have occurred of distress so general and severe as that which has been exhibited in the United States.”

For the first twenty-two years we enjoyed all the advantages of peace at home and war abroad; we prospered amidst the distresses of others. But it ought not to be said of a Republic that its institutions are calculated only for a state of foreign convulsion; that it can flourish only when others suffer. Our history justifies the observation that our prosperity is in a ratio inverse to that of Europe; when it is in a state of convulsion, we rise to greatness in proportion to its throes; its repose causes a revulsion which shakes all our interests to their foundation. If it be really true that we have adapted our systems to a state of war in Europe, that they are inconsistent with the relations which flow from general peace, it behooves us to pause, and ask if this is a prudent basis for legislation? if it is not a bold and a dangerous experiment to make all our calculations on a state of things which no longer exists, and was forced and unnatural? We are too apt to think the events of our own times common ones. We become familiarized to them by their continuance, and cease to appreciate their magnitude. History has never presented to our contemplation such a succession of great events as in the last thirty years. Future generations will wonder at them, and wish they had occurred in their days. We, under whose observation they have passed, bestow less of our attention to their nature, and are not sufficiently convinced that, in proportion to their importance, their recurrence is less probable. When the fancy or pride of the historian shall have swelled them beyond truth, those which we now contemplate with so much admiration will lose their interest. An imported head of antiquity, which may have been on the shoulders of Pompey, excites more curiosity than the heads of greater men whom we have all seen: future ages will look more to that of Washington. It is not for curiosity alone we look to other ages and other countries; we eagerly search the records of ancient Republics for the rules of government and the lessons of experience;

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we could better profit by the examination of our own; posterity will look to this for example. Other nations have followed and now profit by our political institutions, but all shun and avoid our internal policy, our principles of economy, and national interest, because our experience has proved their fallacy; our moral influence still operates everywhere but at home; we alone are unjust to ourselves, unwilling to profit by our own practice. The present Cortes of Spain, at the moment of assimilating their religious and political establishments to ours, evince, by their corn laws, tariff, and commercial regulations, that our history has been instructive to them; when it shall prove so to ourselves, it will not be thought unsafe or unwise to build our systems of revenue on domestic and not foreign industry, on the foundation of our own laws, internal production and internal employment. As to stability, it is the difference between the waves and the land; as to certainty, between the return of the seasons and the fluctuations of foreign regulations; as to the means of consumption, between the steady demand for the surplus of labor and production, and the one which varies with every importation. History does not furnish another instance of a nation relying on the importation of goods as the main and almost exclusive source of revenue. It has now become more like the daring throw of desperation than the settled result of financial knowledge, or the deliber-

ate deductions of reason. In every other nation, agriculture, manufactures, and commerce, have been deemed intimately connected, each necessary to the growth and wealth of each other, all essential ingredients of national happiness; in ours, there is said to be an hostility deep, inveterate, and incurable. To every individual among us, it is the first lesson of economy to earn more than is expended, to sell more than is bought, to export more than import; yet this is said to be bad policy for a nation. It has been deemed sound policy to bottom the public resources on the consumption of the people, and that the articles of that consumption should be furnished from abroad. Thirty years of experience has tested the wisdom of our measures; they may suit a state of war, but are ruinous to us in peace. It is verily believed that the last five years of European peace have taken from the resources of the people more than was acquired in twenty-two years of European war; that, if the debts of the country were deducted from the value of the property, the nation is poorer than in 1790. If this be thought a bold assertion, the committee beg that its correctness may be decided, not by general exclamation, but by practical observation and calculation. Our population has increased nearly three-fold: have our exports increased in proportion? The following statement may not be without instruction:

*Exports for the years 1790 and 1820.*

Exports.	For 1790.	For 1820.	Increase.	Decrease.
Pot and pearl ashes - - - tons	6,280	8,625	2,345	
Beef - - - - - barrels	62,371	53,891	-	8,480
Flour - - - - - barrels	619,681	1,177,036	557,355	
Fish, dried - - - - - quintals	383,237	321,419	-	61,818
Fish, pickled - - - - - barrels	57,424	87,916	20,492	
Flaxseed - - - - - bushels	409,444	220,914	-	188,530
Indian corn - - - - - bushels	1,713,241	533,741	-	1,179,500
Pork - - - - - barrels	26,635	44,091	17,450	
Rice - - - - - tierces	73,329	71,663	-	1,666
Tobacco - - - - - hogsheads	101,272	83,940	-	17,332
Tar - - - - - barrels	51,044	38,176	-	12,868
Pitch - - - - - barrels	3,818	3,798	-	20
Turpentine - - - - - barrels	58,107	75,749	17,642	
Wheat - - - - - bushels	1,018,339	22,137	-	997,202

It would be descending to minuteness to pursue the comparison to all the items of our exports; the general result would not differ from this specimen. In cotton, there has been not only a prodigious increase, but as it were a new creation; the value of this article exported is to the amount of all our domestic exports as twenty-two to fifty-one. It exceeds all the other agricultural productions of the country, but can be raised only in the southern sections; to them and the nation at large it is of infinite interest; it relieves the general gloom; but to sixteen States it affords no profits, except by carrying and consumption; it furnishes no foreign market for other productions.

If the amount of exports be a test of national wealth, if agriculture be an interest worthy of national attention, this presents a serious picture of our progress; it ought to be well examined by every farmer who cannot raise cotton. So far as the exportation of domestic produce is the support of commerce, so far the picture applies, and the merchant must seriously examine it. So far as the ability to consume productions imported from foreign countries depends on the quantity of ours exported, the financier must look to the prospects of the revenue; and in its effects on all the interests of the nation, the statesman has much for contemplation. When he has compared the imports

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with the exports, he can well account for the following official view of our situation :

"The currency of the United States has in three years been reduced from \$110,000,000 to \$45,000,000. This reduction exceeds fifty-nine per cent. of the whole circulation of 1815." "All intelligent writers upon currency agree that where it is decreasing in amount, poverty and misery must prevail. The correctness of the opinion is too manifest to require proof; the united voice of the nation attests its accuracy. As there is no recorded example in the history of nations of a reduction of the currency so rapid and so extensive, so but few examples have occurred of distress so general and so severe as that which has been exhibited in the United States."—[*Treasury Report on the Currency*, p. 496.]

Without inquiring whether the state of the currency is a cause or an effect, it is enough to know and feel the melancholy truths thus avowed. Why are these things so? The sea, the forest, the earth, yield their abundance; the labor of man is rewarded; pestilence, famine, or war, commit no ravages; no calamity has visited the people; peace smiles on us; plenty blesses the land. Whence, then, this burst of universal distress? In former ages, seven years of plenty would feed seven years of famine. Plenty was a blessing, not a curse; it seems reversed in the present. Our last five years have been well favored and fat fleshed, our corn been rank and good, but our individual and national resources are "withered, thin, and blasted with the east wind;" "our full corn has become blasted, our fat kine poor and very ill favored and lean fleshed, such as we never saw before in all the land." When the bounties of Providence fail to prove beneficent in their effects, man must be perverse or Government unjust. Past the thirtieth year of our existence in the present form, approaching the fiftieth of independence, and, counting from that of its recognition, we have had fewer months of war than years of peace, yet abundance cannot relieve our wants; the market for the one, the supply of the other, are neither within the control of the people, or directed by the Government. A Government, too, of the people's choice, bound to reward filial attachment by national protection, it was not instituted—it is not supported—to suffer all the interests of the nation to be writhing under foreign policy, and, while imploring relief, to be sunk under the appalling answer of "regulate yourselves."

When Government calls on the people for revenue, they will answer "let us alone." If legislation will neither lead to wealth nor relieve from distress, it must not legislate the people out of wealth or into poverty. When plenty is attended with the effects of famine, when superfluity will not avert wants, and peace to us produces all the miseries of war to others, there must be some deep and radical error; it must be most powerful in its operation, and be inherently fixed in a system which thus involves a whole nation in general distress. History affords no example of a people impoverished while in the full fruition of health, peace, and plenty; it has fallen to the lot of ours

to furnish a new item to its records. Elsewhere, an overflowing treasury indicates national prosperity; with us, the two years of the greatest revenue have been selected as the epoch which consummated our embarrassments. There are sources of taxation which will supply the public wants from the people's surplus; those sources are traced in every country but this. Our system of revenue is founded on the markets and consumption of the country, and both are dependent on foreign power and interest. Success may justify the bold experiment at a time when moral and political principles have been deranged by a great revolution; but when pursued in a time of settled order and general repose, it savors not of wisdom or justice. It failed even in the age of wonders; it would be a new one, indeed, if it succeeded now.

It cannot be unwise or unprofitable to search for the causes which have brought the country to its present condition. The evils, being neither local nor partial, can be of no ordinary kind; their origin cannot be in the people. It could not be their intention to blast the interests of agriculture, manufactures, and commerce, for they are their own; to exhaust their public treasury, for that must tend to their oppression; it could not be in their power, if their Government was wise enough to discover the tendency, and strong enough to control their operations; and if it has not wisdom to discover or strength to direct the true interests of the nation, it cannot be such a one as its founders intended to secure to their posterity. It is a poor compliment to their wisdom as well as ours, a poor recommendation to republican forms and principles, if this Legislature cannot "provide for the common defence and promote the general welfare;" we trust it will be never said that it shall not by its efforts deserve success. If the fault is not in the people, it must be in the Government, either foreign or domestic; if foreign systems have produced these lamentable consequences, it cannot be necessary to enforce the necessity of their counteraction; if a domestic system, or the want of one, has led us to our present state, its abolition, or the adoption of a new one, is a solemn duty due to our constituents. If the majority in our councils should think that a change of policy may be dangerous, it must mean domestic; their patriotism would forbid the imputation of their being unwilling to relieve the country from the operation of foreign policy, if that should be the cause of our grievous condition. If it is not foreign, it must be domestic; and they ought to be well assured that their course is consistent with reason and sanctioned by experience. If it be true that our present legislation is calculated on a state of war in Europe, that it has then but partially succeeded, and wholly failed in peace, would seem but the natural connexion between cause and effect. The change of all the relations on which a system is built must affect the system itself; it is in vain to expect a uniformity in its operations when all the moving principles are reversed. We build our revenue on consumption, yet expect it to be permanent while consumption is in a consumption; we found the

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people prospered when exportation gave a market for their surplus, and look for a continuance of prosperity when the sources of it are stopped. The expenses of this Government increase with the population of the country; yet, while expenditure is on the advance revenue is on the decline. Ours is the last Government in the whole community of nations which is willing that the markets for the production, the establishments for fabrication, should be in a foreign country, under the influence of foreign Powers; we give efficient protection only to the means of distributing our wants. We seem not to follow the experience of ages, but to be making a daring effort to persevere in the assertion of principles exploded by all national practice; yet, in their application to one great and important branch of national industry, we have discovered and corrected our error (if error it may be called) before any practical injury was sustained. During five-and-twenty years we adhered to our discriminating duties on tonnage; they probably aided our commerce during the French revolution; but it was foreseen they would injure it when the occupations displaced by that event should have obtained their accustomed employment, when the interest of nations would suffer them to pursue their policy; and only fourteen days elapsed from the promulgation of our treaty of peace before we repealed our whole system of discriminating duties as to the ships of all nations who would repeal theirs. We offered reciprocity to all the world; but where reciprocity was refused, the discrimination remained; it still remains, and this Congress adheres to the same rigid course which is pursued towards American shipping. The committee deem it not improper to recommend the lesson of its own experience; it is but for this Congress to apply its own principles to another co-ordinate and equally important branch of national industry. Laws founded on war will not suit a state of peace in this more than any other. Let there be no system of restriction, but one of reciprocity—of liberal interchange; as one of the great family of nations, let our laws keep pace with theirs in liberality; let them even make the first friendly offer.

The act of March, 1815, is our own definition of free trade. It declares that reciprocity of duties is the true principle by which to ascertain whether a system is restrictive or free. This act has met with the approbation of the whole country. So far as the reciprocity has been obtained, it has aided our commerce; and all we ask of others is the adoption of this principle. But, though we repeal our laws, it is only conditional—"such repeal to take effect in favor of any foreign nation, whenever the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operate to the disadvantage of the United States, have been abolished." Reciprocal duties are within the spirit of this law; its policy is wise and sound; its application to the interest of agriculture and manufactures, it is believed, would relieve their distresses. That the exclusion of the productions of our soil operates to the disadvantage of the

United States cannot be denied. Reciprocal duties on theirs is our practical commentary on the text. It is, then, most respectfully submitted to the House that it, at least, deserves the trial whether the same rule ought not to be applied with equal force to the raising, the making, as well as to the carrying of our articles of consumption. Year succeeds year; our troubles increase. For the five years of the new state of things, no changes have been made in our laws in relation to any concern but commerce; each year finds them worse. At the last session the attempt to effect a change was called premature; and it seems that even now the convenient season has not arrived. The measures then and now proposed are said to be ruinous to the great concerns of the country. No better or other plan is proposed for their relief, when all admit the evil; some must offer a remedy; those who object to the plans of others should present some of their own, or prove that none is necessary. If the country labors under distress, the cause should be discovered as well as the remedy. If it is not to be found in the declension of our agriculture and manufactures, then where is it? If their revival will not effect the cure, then what will? The people of this country expect that something will be done; and as the measures must originate in this House, it assigns the various subjects of consideration to the appropriate committees. No measure has yet been proposed by the Committee of Ways and Means to provide relief to the treasury, or by those on agriculture and commerce to relieve those interests. It has thus devolved on the Committee on Manufactures, not to act in concert with the other committees of this House in devising the measures which may afford, by their harmonious co-operation, equal relief to all the suffering interests of the country, but, unaided, as it were, on a forlorn hope, to look for the means of assistance to the interests peculiarly confided to their care. The committee do not shrink from the arduous duties. In their discharge they find great relief in the conviction, which results from their investigations, that there is no great interest of this nation distinct from another; that there exists among them a most intimate union, connexion, and dependence; that, in our happier days, they were as little divided as they are now in those of their despondency. If all now flourished but one, it might well be doubted if it would be proper to risk their safety, by attempting a change. But the committee think there can be no danger in moulding our system into such shape as is necessary to meet the changes in its foundation; to apply the same principles, which have been approved of by every Congress since the peace, to all the sources of national industry. We think them the heads of tributary streams which form the great river of public prosperity. We know of no dividing ridge which prevents their union. All history, past and present; all experience, foreign and domestic; the opinion of the statesman in council, and the farmer in the field; the coincidence of national laws and national toasts, connect agriculture, manufactures, and commerce. We are not aware that this union



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is forbidden, or ought to be dissolved by sound legislation. Believing it exists, and is indispensable to national happiness, we beg leave to present a bill, which is the offspring of our judgment, guided by no attachment to one interest at the expense of another, by no hostility to any system, except such as "operate to the disadvantage of the United States."

If common defence requires a revenue to provide the means, that revenue should be as certain as the expenditure, permanent as the wants it is designed to meet, built on the consumption, supporting and supported by the industry of the country. If the means of consumption depend on the facilities of exchange, a market must be secured to agriculture; provisions and raw materials must have a permanent and steady demand; manufactures must exist somewhere to furnish and secure this demand, and the supply of the articles for use which commerce must distribute. Then another question occurs: Where should these means exist and be in operation? In our own country, in the hands of our own citizens, under the control of our own Government: these appear to us the essence of independence. The materials for building and equipping our ships, clothing and arming our soldiers and sailors, consuming the surplus, and supplying the wants of the people, are items in the general system of common defence and general welfare. It is time to know whether this country can or ought to command them. The effects of foreign command have been tried; it is but a common mode of coming at truth to try the domestic.

National interest and national pride have already been put to a severe test; it is yet grating to national feeling to find the benefits of our laws accruing not to our own citizens, but to a people who have no attachment to our institutions, whose interest is adverse to ours. The raising of raw materials, and their conversion into manufactures, have, in all other countries, been deemed a source of general wealth; the placing the raiser, the manufacturer, and the consumer as near to each other as possible, has been in every trial found to be the advantage of all. The supply of the want of manual by the labor of machinery is a practical remedy for a sparse population, all tending to increase the certainty and facility of exchange, which promote alike all the branches of national industry. The country is not known where commerce has not grown with manufactures, and agriculture been nourished by both. In this we have not paid as much attention to internal as external industry, yet it cannot be less important. We have built our revenue on importations, but have been indifferent about securing the means of purchasing imported articles; our custom-house credits are a bounty to the importer, yet it seems of no concern whether that importer is a resident or an alien, whether the profits of importation are scattered within the country, through the thousand channels of domestic expenditure, or sent abroad to produce the same good effects to others. If the wealth or poverty of a nation can be ascertained from its abundant or diminished currency, it becomes most

interesting to know what gives it amount and activity; it must be industry, employment, and the resulting profits, of which currency is more the effect than the cause. The flood of importations has lessened their employment and the sources of gain; currency is deprived of its occupation; the pursuits of active industry, profitably employed, require some common medium to pass from hand to hand, to go the rounds of society and continue active till demand for it ceases. In its course through the great circle, the same sum may pay twenty times its amount of debts, be the foundation of twenty new contracts, furnish a market for twenty different products or employments. It thus performs, in its twenty operations, the same duties that twenty times the same would, if confined to one. As a means of paying for imports, its movement is in a straight line to the merchant as an article of remittance; it is only on its arrival in a foreign country that it travels the rounds of employment. In the interior, the dollar which reaches the store does not come back to the farmer, mechanic, or laborer; expended in a manufactory, it returns again for provisions, materials, and labor, current; while it can find employment affording and receiving it, it passes through every occupation; from the store it has but one. It is the difference between circulation and remittance, furnishing employment at home or abroad. Profits being the life of currency, currency being the criterion of general prosperity, the committee will not further examine whether it is better for the nation that those profits should accrue from domestic sources and to the residents of our country.

The estimate of the Treasury Department is, that, in three years, the currency of the country was diminished \$65,000,000, counting from 1815; that this diminution has produced unexampled distress and misery. How has it produced this state of things? If the currency has been thus reduced, it has been from the want of employment. There is, perhaps, more specie in the United States, than at any former period, but it is not currency while it is unemployed; when it does not pass from hand to hand, it is no more currency than an equal value of silver or gold in ingots, or the boxes or vaults of the bank which contain it. Bank notes are currency when they are current and in circulation, but while they are in the bank are no more currency than if they had not been signed. The diminution of the currency is, therefore, not owing to its extinction, but to the want of use and employment. There is now but the one duty for it to perform—remittance. There is no want of capital to enliven the pursuits of agriculture, to push manufactures into operation, or to give activity to commerce. But there is no employment; the materials of currency are abundant, but no occupation to set them in motion; \$65,000,000 has been withdrawn from circulation, because there has ceased to be any cause to produce action. Coin, or bank notes, or both, are currency when current and in action; they cease to be so when there is no use for them. In 1815, the production, fabrication, and distribution of the country,

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kept \$110,000,000 of currency in active operation; the business of the nation, required it. Now it is reduced to \$45,000,000, for this plain reason—the business of the country requires no more. Business had decreased 59 per cent.; embarrassment and distress have increased in the same ratio. The history of those three disastrous years will tell us the kind of business which has so decreased as to bring about such consequences. It is not the business of importation of foreign goods, for it was never so great; if they add to a nation's wealth, riches have indeed flowed over the land without stint. It is not the business of remittance; so far as that is an employment for currency, it still continues in full activity, requiring not only money, but bank stock, public stock, book debts, notes, bonds, judgments, and bankruptcies, to pay the balance against us. It is that rectilinear current which makes the merchant only the conduit to the great foreign reservoir. Unless, then, it shall be first made to appear that the state of our foreign trade is such that the balance-sheet is in favor of our merchants, that the foreign manufacturers and exporters are the debtors and not creditors of our merchants, until they send out more than they bring home, foreign importations call for more currency. If, however, on this important subject of the balance of trade, we should labor under an error, it can easily be corrected by the exhibition which every importer has it in his power to make, which would add to his credit at home and abroad, which would remove deep and dangerous delusions, quiet the public fears, and end discussions which will never cease without some practical test. It becomes here indispensable to settle it. If the balance of trade is against us, and more remittance is required, then there is one employment for currency left, and the reduction is not for the want of importations to keep it active; if, on the other hand, there are no remittances due, no employment for the currency, the falling off in importations may, in such case, be put down as one leading cause of the decrease of currency and growth of public misery. It solves at once the great question: What is that employment of currency which adds to and secures general wealth, and guards against poverty—imports or exports, foreign or domestic manufactures? It is the subject on which volumes have been and will be written, public opinion and the national councils divided, and on the correctness of the decision of which all the public and private interests of this nation depend. Authors, reviewers, essayists, statesmen, and printers, can never convince each other by any thing depending on reasoning. But there is one book that contains the convincing and conclusive argument which none can resist—the importer's ledger. If the excess of exports over imports is the measure of a profitable trade, the merchant's ledger will show it, being the only person concerned in the trade; if he pays for the goods imported, his and the country's profits are the same. Now, this book shows whether the excess of imports or of exports is the profit. If he has paid for all imports, and has a balance of goods on hand, or of money due him, the trade is profitable. To settle at once

this great controversy, to take a bond of fate, to exhibit such a case as will prevent a recurrence of another attempt to induce Congress to pass a law which shall never destroy agriculture, commerce, revenue, and all the interests of the nation, let the importers of foreign goods proudly exhibit their balances on the credit side, if they exist; they must increase their credit, and will convince Congress that importations add to national and individual wealth. The committee would withdraw their recommendation of manufactures when one small item of information should be communicated. For what purpose are stocks sent to Europe? why are foreign collectors seen in our commercial cities? property sold by foreign plaintiffs and assignees, and, probably, not an instance of an importer's insolvency without foreign creditors in the schedule? If the balance is favorable, why is not opposition silenced where it is so easily done? When it is not done, the fair inference is that it cannot be done. It may, then, be taken for conceded that there is yet employment for currency in remittances, and that this has not been the source of its useful or profitable occupation.

This at once solves the great mystery, and settles the great question; it points to that use and circulation which makes the amount and activity of currency the test of general prosperity—internal, not external. It accounts for the eagerness of foreign nations, foreign artisans, merchants abroad, and foreign agents among us, to monopolize that circulation from hand to hand, through the whole round of internal commerce, which gives its vigor and profits; for the willingness of all of them to leave to us the miserable and ruinous circulation of currency for remittance to them. Foreign writers and foreign statesmen may well inculcate on ours the doctrine that the excess of imports over exports is the rate of profit; their doctrines are like the profits, sound and solid to the nation that reaps the benefit. Whether it is the one which pays, or the one which receives; the one which holds the coin, or the one which hears it jingle; the one whose currency flows in a torrent-like stream beyond its jurisdiction, never to return, or the one whose currency becomes a steady, gentle current, meandering through every occupation within the great circle of national industry, giving use and value to every production, floating it to every market, the state of the currency and of the nation furnishes convincing proofs. It is then no longer left to conjecture the reasons why this country flourished in war, and has become depressed in peace; why the people could then pay the Government twelve millions of internal taxes a year from sources that would not now furnish one. They had a currency; it was active, it reached every man. Manufactures flourished every where within the sphere of their operations; all the agriculture of the country flourished with them; it was depressed only in those parts of the Union beyond their influence. Profits remained where they were acquired; they were impelled out through the arteries, and returned through the veins; each occupation, being healthy and active, aided another; their united efforts were felt

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by the nation. Currency was confined in its course and variety only by the general mass and complication of the mutual wants of our whole population. And where manufactures are yet flourishing, the same effects are yet felt; the sphere of their action bounds the circle of circulation. Beyond that circle there is scarcely a currency left, except in the cotton-growing States; there it continues, because foreign policy and the interest of foreigners will not suffer its exclusion from a market. But to all the grain-raising States, those abounding in raw materials for manufactures, and population, fuel, and machinery to conduct them, the prospect is gloomy indeed. The fertile soil of the interior and the West produces measureless products; roads, canals, and noble rivers, afford infinite means of distribution; but there is no market, no employment. Foreign systems, with unresisted, unchecked sway, have attained the command of our consumption, deny the use of our products, monopolize the profits of converting rough materials into manufactures, and would have acquired the profits of their distribution had this Government "let it alone." Foreign agriculture supplies the materials, foreign industry the labor which produces to the American people their clothing, their utensils, and means of defence against foreign aggression. American materials have no value; American labor has not employment; and the American Government has adopted no system of counteraction, no measure of resisting or defensive policy. If ever a people were groaning under a restrictive system, one of bounties, premiums, privileges, and monopolies, which denies the operation of every one principle of free trade, which coerces occupation and paralyzes industry, which prohibits a foreign market to our productions, and forces every thing foreign on ours, thus depriving us of both, it is the people of whom we are the representatives, who have honored us with their confidence, and confided their interests to our patriotism. If this system was the offspring of our legislation, error of judgment might be an apology for its commencement, and a disposition to make no sudden changes for its continuance; that the moving motive for its enactment was the good of this nation; a conviction that it was the best mode of drawing, in fair exchange, the resources of others, retaining our own. But when we admit this is a foreign system, enacted by foreign Governments for the benefit of their subjects, not of our citizens—as the means by which to draw our wealth to them, and not to throw theirs to us, we have a serious account to render to a suffering people. Commerce has been rescued from the grasp of foreign usurpation by legislation—so far, at least, as granting all that has been asked. Agriculture and manufactures are struggling, unaided, under a weighty pressure; we all unite in wishing them well; many bestow their blessings, rejoice in their good prospects, feel and acknowledge their importance, glad they are doing so well, and hope they will do better. The commercial codes of Europe are, at the people's expense, laid on our tables; there is not a production of our country at which some of them are not directed; not a branch or source of

national industry which they do not attempt to destroy; this is the pressure, this causes the struggle which, in every district, some of us witness; to let them alone is to leave them in a foreign grasp. Why bestow our blessings or ever breathe a wish for the success of our industry, if it is not a national contest? If it be the nation's and the people's cause, why will not the Government that has an eye to pity stretch forth its arm to save? In no small portion of the nation, oceans, roads, canals, and rivers afford little else than the means of importing and distributing foreign productions; the land, of little other use but a resting-place on which to consume them. Thus have "our soil and our seas" already been usurped from those to whose use they were designed, and to whose use it is our duty to secure them. The consummation of foreign has left no good foundation for the fear of domestic usurpation. We have told the people that reciprocal duties are no restriction—do not impair free trade. We have proclaimed it to the world that reciprocity is the basis of our legislation; that discrimination shall continue while reciprocity is refused. We have given a pledge to the nation; its principles embrace all its interests; it can be redeemed only by general and equal protection. A people struggling on the ruins of all their interests have a right to ask, nay, to demand, much of their Government; to review its past and revise its present systems; to seriously examine whether they are built on the experience of other nations and other times, on tried, established, and practical principles, and justified by our own; whether their success does not depend on the reversal of every rule of individual economy when applied to national, in dissolving the chain which connects causes and effects; whether any thing less than a total change in all the laws of trade, the principles of intercourse, the relations of society, (we might almost say the order of nature,) can make a nation wise by the means which must make its component parts poor, when all its interests have declined, and its Treasury become emptied; whether they shall be left to regulate themselves, or something done to revive and replenish. Providence has been bounteous in furnishing all the means; have we done our best in using them to secure private and public happiness? This question must be answered to the people. If any one will propose a measure in his opinion better calculated to "provide for the common defence, and promote the general welfare," he ought not to withhold it. If he has none, we most respectfully ask the House to give its sanction to the one the committee believe lays the foundation of efficient relief, and contains no principle injurious to any item of national industry.

The committee deem it unworthy of themselves to repel any suggestions of hostility to the revenue or agriculture of the country. Did it depend on their own feelings, they would deem it equally so as to commerce, if it would not be thought to indicate too much indifference to the language of the memorials submitted to their consideration. Some avowal is due to public opinion, which has, in some measure, countenanced the belief that

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commerce and manufactures are rival, if not hostile interests. We publicly disclaim such belief, and avow the conviction that there is a union in their true interests, and ought to be a harmony in their movements; that they are allies and friends by nature; members of the same great society; twin children of agriculture, looking to it as its source, aiding and extending it by friendly co-operation. But commerce, as the child of agriculture, the sister of manufactures, is exporting, not importing; by reversing her employment, she becomes a stranger, expatriated from her own country, naturalized in some other. Imports of articles congenial to our soil are the bane of agriculture; the employment of foreign industry on fabrics to which our own is competent, is death to manufactures; and both exhaust the national resources. No interest has felt it more severely than commerce; and convinced, by the evidence of experience, she has, in our records, entered a verdict that importation is the small, exportation the great source of her prosperity. This Congress has rendered its judgment on the verdict,\* and this committee will not arrogate the power or express a wish to reverse the decision. It fully accords with our convictions of national interest and public defence. If the foreign export commerce requires further protection, by resisting foreign restriction; if it can be assisted by opening new sources, or removing obstructions from existing ones, we pledge ourselves, that though commerce may find in this House friends who can better discern, and, possessing more of their confidence, will be more enabled to co-operate with those engaged in its pursuits, none will more zealously lend their assistance than the Committee on Manufactures.

By those who will read, it shall not be said that we have not listened to and examined their remonstrances; it was our duty to well weigh their many objections, to yield to them, or attempt their refutation; in doing so, it has been not with the expectation that we could produce conviction. We are not vain enough to think that the settled opinions of those who have not formed them for their own sole guidance, but to give an impulse to others, will be changed by any efforts of ours; they are more directed to minds as yet open, as well to justify ourselves as to lead others to inquiry; to elicit information; to draw out the lights of experience, and appreciate the principles of political economy, as their application may best suit the interests of the country. In the conscientious discharge of our duty, we are conscious that some portion of the nation has viewed our conduct with suspicion and distrust, perhaps with a hostile feeling. Though we know that the hand of friendship, when offered by us, will be spurned, it shall never be raised for aggression; the first law of nature authorizes it for defence.

Having no predilection for foreign importations, whether of goods or opinions, we have thought it a duty to recommend the adoption of principles which have received the approbation of our best

statesmen; on which this Government commenced its operations; which, when pursued, have produced prosperity; when abandoned, have left us in adversity. Disregarding theory, we have endeavored to discover facts; less anxious to be consistent with political logic than practical results; less desirous to force facts to conform to reasoning, than to apply reasoning to facts. Believing that the difficulty in the ascertainment of the true and sound principles of legislation is not in their mystery, but simplicity; in not being above, but adapted to common understandings, we have investigated the matters submitted to us under the conviction "that error hath proceeded from too great a reverence and a kind of adoration of the mind and understanding of man, by means whereof men have withdrawn themselves too much from the contemplation of nature, and the observations of experience, and have tumbled up and down in their own reason and conceits. Men sought truth in their own little worlds, and not in the great and common world; for they disdain to spell, and so, by degrees, to read in the volume of God's works; and, contrariwise, by continual meditation and agitation of wit, do urge, and, as it were, invoke their own spirits to divine and give oracles unto them, whereby they are deservedly deluded." The useful discoveries in science have been more owing to accident than the researches of philosophers. "Logic doth not pretend to invent sciences, and, therefore, we see that they who discourse of the originals and inventions of things refer them to chance, not art. You will rather believe that Prometheus first struck the flints and marvelled at the spark, than that when he first struck the flints he expected the sparks." The needle points to the pole, philosophers cannot tell why; they knew there was electricity and lightning, but could neither discover their nature nor disarm the latter of its terrors; a kite, the schoolboy's plaything, taught it to Franklin. The mind that searches to be enlightened, and would avoid benightment, will find, "the truth is, they be not the highest instances that give the securest information, as may be well expressed in the tale so common of the philosopher, that, while he gazed upwards to the stars, fell into the water; for, if he had looked down, he might have seen the stars (and kept out of the water) in the water; but, looking aloft, he could not see the water in the stars. So it cometh often to pass, that mean and small things discover great better than great can discover small; and for that cause we inquire into the nature of a commonwealth, first, in a family and the simple congregations of man and wife, parent and child, master and servant, which are in every cottage. Even so, likewise, the nature of this great city of the world, and the policy thereof, must be first sought in mean concordances and low portions." Tracing, therefore, the true principles of political economy to the conduct and the interest of the individuals who compose the nation, we feel abundantly satisfied that we cannot err in their adoption.

We are obliged to trespass on the patience of the House, but hope they will not deem it a waste

\* Navigation acts.

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of time to notice the prominent objections which have been urged.

*Protecting duties are unconstitutional.*

One objection has been made which, if valid, will preclude all inquiry into the policy or necessity of the proposed measures; it is, that, by the Constitution, there is no power given to Congress to impose any tax or duty for any other than purposes of revenue. This objection has not been raised to meet a case of fancy, or one which might possibly exist; but was urged in debate during the last session, and has been renewed in various memorials presented at this, in opposition to the bill which passed this House. Being, therefore, applied to a definite measure, its validity can be examined without ranging through a variety of supposable or possible cases, or being compelled to examine whether a power which was intended to be practical—the great one on which the existence of the Government depended—might be extended to an arbitrary or illimitable extent.

The power “to regulate commerce with foreign nations, and among the several States, and with the Indian tribes,” is unlimited in its extent, confined to no particular objects or purposes, and may fairly be said to be commensurate with all the objects of commercial regulation, except those embraced in the fifth clause of the ninth section of the first article of the Constitution. The power to lay and collect taxes, duties, imposts, and excises, has no other limitation, except that they shall be uniform, and capitation or other direct taxes shall be laid in proportion to the census. If there are any of the powers which are confided to the General Government by general comprehensive terms, which require no latitude of construction, which were intended and ought to be supreme, they are the regulation of commerce and the imposition of taxes. To derogate from these powers; to interpolate uses, purposes, and objects, beyond which Congress should not pass; to impose constructive limitations where the Constitution has given the unlimited power to act, would be as subversive of its principles and the security of the Government as to assume powers by construction where the Constitution was silent, and the States had made no delegation. The uniform practice of this Government, the acquiescence by the States, would seem to leave no doubt as to the legitimate power of Congress, in the regulation of commerce, to prohibit exports by an embargo, or imports by non-intercourse laws, making the prohibition general or partial, according to the objects to be effected. Foreign vessels are excluded from the coasting trade; the ports of the United States are closed against all British vessels from the British American colonies or islands; and no foreign goods can be imported from those places, even in American vessels, unless the produce of those islands or colonies whence imported. It is unknown to the committee if the States have complained of any of these acts as usurpations, or the mercantile portion of the country have denied either the power to pass or the policy of adopting those which relate to the coasting trade or navi-

gation. The latter operate both on navigation, produce, and manufactures, and exclude all articles. If they are Constitutional, it would seem that the admission or exclusion of foreign articles was a matter in the discretion of Congress, to be exercised according to their opinion of the interest of the nation. Whether this exclusion shall be direct and absolute, or be virtually so by the imposition of high duties on tonnage or produce, will probably not be thought a Constitutional question; they are but modes of effecting a given object; both are expressly given by the Constitution.

In the imposition of duties, it was the early policy of our Government to discriminate between foreign and American tonnage, as well as goods imported in foreign and American vessels; light-money was imposed only on foreign. If it should be questioned whether the object was revenue or protection to our shipping by those laws, this doubt would probably not apply to the act of last session imposing a duty of eighteen dollars a ton on French shipping. This act was called for by petition from our mercantile cities, and recommended by the Executive; its avowed object was to countervail a duty on produce. If the passage of countervailing or retaliatory laws is Constitutional, the committee can perceive in the Constitution no selection of objects on which alone they may operate. Shipping, produce, and manufactures, seem alike within our reach; either might be selected, as it might present to France reasons of greater or less weight for relaxing her system. If a high duty on the importation of her manufactures would be the most efficient and judicious measure to induce her to repeal her duty on our raw materials, our power to adopt it would seem undoubted. If the object of such duty should be the protection of cotton planters or cotton manufacturers, would it not be as legitimate as the protection of the cotton carriers? Whether it shall be extended to all, or must be confined to the one class concerned in this great national staple, is, we think, less a question of power than expediency and justice. In every act of Congress imposing duties on imports an addition of ten per cent. to the rate of duty is imposed on goods imported in foreign vessels. This discrimination is coeval with the Government; the power to make it, cannot, at all events, now be questioned; yet none of the laws declare the object for which it was made, but leave it to be inferred as a matter of policy. If the Supreme Court should infer it was for revenue, or the encouragement of navigation, and declare the law valid, it is believed they would not declare it void if they could discern the encouragement of manufactures. If the act of last session, in order to counteract the French duty on cotton imported in American ships, had, instead of adding eighteen hundred per cent. to the duty on French tonnage, added it to French cotton goods, silks, wines, brandies, or other goods; if, to coerce England to repeal her Orders in Council, and France her decrees, instead of embargo and non-intercourse, our laws had prohibited the import of their manufactures, or imposed additional duties which would have excluded them;

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if, to counteract the operation of their corn laws, which directly exclude our provisions—their system of impost, which virtually excludes our wool, hemp, and flax—their system of bounties and drawbacks, which frustrates the policy of our impost, so far as it tends to the aid of our manufactures—their navigation acts, so far as their object is to exclude us from the colonial trade, Congress should think it most effectual to aim their measures more at the manufactures of England than her navigation, it could not be well contended that the Constitution forbade it; for the object might be the exclusive protection of the shipping and commercial interest. Though the component members and each branch of the Government might concur in the law, there might be much diversity in the motives and objects which brought it about. The motives which would influence the members of this House might be the protection of manufactures; of the Senate, commerce; of the President, agriculture; and those objects be publicly avowed. In such a case, the Supreme Court, which must decide on the constitutionality of this law, would find it no easy task to extract the governing principle. Their difficulties would be increased, if the Secretary of the Treasury should have recommended it as a revenue bill, either by imposing high duties to increase the impost, or a prohibition of the foreign to rear up the domestic manufacture, as the subject of an excise. If revenue is the only legitimate object of taxation, prohibition, or the regulation of commerce, the validity of such a measure would depend on the opinion of the Secretary, for the three branches of Government would, unless supported by him, have passed it for unconstitutional purposes. He has recommended that, if any measure of revenue be adopted at the present session, it be the exclusion of foreign and an excise on domestic spirits; if Congress should adopt it, it will be hard to decide whether it will most benefit the farmer who raises the grain, the distiller who manufactures it, the merchant who transports the whiskey, or the Treasury which receives the duty. The court, in deciding on the validity of such a law, must do it by certain settled principles of construction, and not their opinion of the exclusive or relative legitimacy of either object; for they, like other men, may lean more to one great national interest than another.

The whole course of our legislation for thirty years affords the highest evidence of the power of this Government to protect navigation and commerce; almost every session has presented practical proof of the conviction of Congress that it is expedient to do it. No one has been hardy enough to deny the power or the policy of encouraging agriculture. But it would seem that manufactures, which in all other countries are cherished as the most valuable offspring of human industry, have become with us a spurious progeny, born with a Constitutional malediction, stern and irrevocable; they must forever be doomed to struggle under legal disabilities, so incurable as to interpose a perpetual barrier to their protection, although all the branches of Government should be convinced that their depression involves the whole country in one common calam-

ity, which would be averted by their prosperity; that it is a lawful object in a system of revenue or commercial retaliation, to reach every other source of the wealth and power of a foreign nation except her manufactures; that it is a duty we owe to the people of this country, to extend the national guardianship over all their other interests, but to thrust this beyond the pale of the Constitution and laws. If such is the imperious injunction of the Constitution, the committee have not so understood it; what policy or expediency may require is one thing, what the Constitution prohibits is another. That instrument designates no national interests in preference to another; excludes none, but throws all alike on the discretion of Congress; legitimate objects of national protection, if in its opinion called for by the public good. This principle gives validity to the laws giving our shipping the monopoly of the coasting trade. Bounties on fisheries, drawback of duties on foreign goods exported, tonnage on French ships, prohibiting intercourse with the British colonies, discriminating duties on tonnage and merchandise, are all Constitutional acts growing out of the plenary power to regulate commerce.

It may be proper to ask of those who urge this objection to protecting duties to point out the rate of duty when revenue ceases, and protection begins to become the ruling object; to define the line which shall limit the Constitutional powers of Congress, as well as to afford the means of ascertaining the object of a law, and the interest it is designed to protect. The duty on rum is at least eighty per cent. ad valorem. Is this a revenue, or a protecting duty? The duty on coarse cottons is about the same; that on teas is one hundred; on spices, about the same; on nails, sixty; gunpowder, forty; linen, fifteen. It is deemed useless to inquire whether the object in imposing these rates of duties can be so definitely ascertained as to afford any rule on which to limit our Constitutional power. The duty on teas can have no other than revenue for its object; the power to impose that tax has never been questioned, for the Constitution affixes no limitation to the extent or amount of a tax or duty; it only excludes one, and proposes the apportionment of others. The committee can therefore entertain no doubt that Congress may, in their sound discretion, impose such duties on foreign merchandise as shall advance the great interest of the nation. In expressing this opinion, they fall far short of the judicial exposition of the Constitutional powers of any Government which is empowered to impose a tax, and acts on legitimate objects. Had they gone so far as to say, "It is admitted that the power of taxing the people and their property is essential to the very existence of Government, and may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the Government may choose to carry it; the only security against the abuse of this power is found in the structure of the Government itself. In imposing a tax, the Legislature acts upon its constituents; this, in general, is a sufficient security against enormous and oppressive taxation. That the power

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to tax involves the power to destroy, is a proposition not to be denied ;” the committee would but echo the solemn opinion of the supreme judicial tribunal of the Union.

*Manufactures are injurious to morals, and produce pauperism.*

That manufactures tend to destroy the morals of those engaged in them, is an objection which, it is believed, has not arisen from the experience of their effects among us. Neither the personal knowledge of the committee, nor the information of those who have formed an opinion from their own observation, would justify the belief that this pursuit or occupation is more prejudicial to morality than any other ; no reason can be discovered why it should be, and there are certainly some why it should be otherwise. If idleness is the parent of vice, employment must be the mother of virtue ; poverty can be no apology for crime, where subsistence can be obtained by industry. Manufacturing establishments open sources of labor, and give employment to those who are able to earn support in no other manner ; affording materials which are beyond their means to procure, and requiring labor which can be performed by children and others incapable of the fatigues of more active and laborious occupations. It may be thought invidious to draw a comparison between the relative morality of those engaged in the various pursuits of life, and an objection ought not to have been made to any which would compel it, without strong evidence of its being justified by facts ; but it has been urged by the opponents of manufactures, and the advocates of other interests, with an apparent seriousness which seems to force it upon the committee to say, that, whatever may be said of manufacturing towns, the morality of seaports is not proverbial. On whichever side the balance may be, it ought not be forgotten that this is not pressed as an objection against commerce or its protection. If all large towns contain the haunts of vice, which are beyond the power of the magistracy to extirpate, it may not be so much attributable to the pursuits which attract a crowded population as to other causes of a general application. It is not so important to inquire what are the effects in other countries as in ours ; there may be local causes, or some growing either out of the peculiar nature of foreign institutions, or the want of similar ones to ours, which may combine to produce different effects. It would not, in other cases, be deemed fair reasoning, that the opponents of manufactures should disclaim the experience and practice of other nations, as affording any evidence of its being our policy to encourage them, and yet press upon their friends an objection, which, though it may be supported by observation abroad, is certainly contradicted by experience at home. But the tendency of manufacturing establishments in other countries to promote immorality may well be questioned ; for an eminent author on the police of England has proved, from official documents, that, in proportion to the population, a greater number of crimes are committed in the agricultural and commercial

than in the manufacturing districts of that kingdom. If experience, therefore, is to be adopted as the test of the soundness of this objection, it will fail to support it ; and it would seem to be capable of as little support by any reasons which could be drawn from the nature of the employment, the entire and constant superintendence which is necessary to the management, or the objects which draw together a dense population.

The manufactory at Waltham is said to employ two hundred and sixty persons, equal to the population of a village containing fifty families. This establishment, then, affords a fair criterion by which to test this objection ; it is probably the largest in the Union. The committee are convinced that it would be doing great injustice to the proprietors and manager to indulge for a moment the belief that any of its operations have given rise to, or even color for, any imputations as to its immoral tendency ; and, having no reason for thinking that other less extensive manufactories have given greater cause for this objection, we cannot refrain the expression of our belief that it has arisen from other reasons than its practical application to our establishments.

Connected with this, and equally, in our opinion, ill-founded, is the allegation that manufactures tend to increase the number of paupers. The example of England is urged with much earnestness as evidence of the fact ; but we are unable to account for the increase of paupers by the increase of the means of employment. If new and additional objects of occupation are presented ; if women, children, and old men, can be employed in a manufactory, and employed nowhere else, it must decrease the number of those who cannot earn the means of subsistence. It is not the excess, but the want of employment, that makes those paupers who are not diseased, disabled, or infirm ; and if the immense extent to which the manufacturing establishments of England are carried is not sufficient to prevent the extension of pauperism, it would serve to afford evidence that they had progressed, not too far, but not far enough. There must be the requisite number for the pursuits of commerce, the labors of agriculture and manufactures, leaving a surplus of laborers unemployed. The poor taxes are large in amount, and oppressive on all classes of the community ; it can be the interest of none to add to their burdens, but of all to furnish occupation to those whose labor would pay for their food. The laws of no country impose a tax for the maintenance of those who are able, and can find by their industry the means of support. It is therefore impossible that manufactures, which increase the employment of laborers, can add to the number of paupers. The existence of both to a great extent only proves that there may be a population so dense that the enterprise of individuals, aided by the steady policy and unceasing exertions of the Government, may not furnish such employment as will procure the necessities of life.

In England, it may be an objection that the use of labor-saving machinery diminishes the want of manual labor. If labor by machinery super-

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sedes labor by hands, and thus increases the burdens of the community for the support of the poor, it affords a striking illustration of the immense advantages of a policy which makes it a matter of calculation and choice to submit to the imposition of enormous poor rates. If mere manual labor would suffice for the fabrication of articles to meet the supply of the domestic and foreign market, and at prices which would exclude competition, the number of paupers might be more limited; but, if machinery is necessary to increase the quantity and diminish the price, to effect these objects, pauperism is the lesser evil, being more than balanced by the individual and national profits, by which foreign nations are indirectly compelled to pay, not only the poor, but all other taxes.

But the application of the objection to this country cannot be perceived. It is a common objection to the establishment of manufactures here, that our population is not sufficient. If this be true, it affords the strongest argument in favor of the adoption of machinery, which supplies the want of population, enabling the few to do the work of many. If the poor of our country have ever had employment sufficient for their support, it is not known that a solitary fact can be produced which shows that it has been taken away by the operation of manufactures. It is a fact easy to be decided, by the observation in our large towns, whether the increase of poor taxes has been in the same ratio as manufactures. The result will probably show that the proportion is less in manufacturing towns and in the neighborhood of large establishments than elsewhere. If the objection was indeed a valid one, it would prove more than those who urge it would wish for; it would be conclusive evidence that the population of the country had attained to such a height as not only to justify the erection of extensive establishments, but that there was a surplus of labor beyond the means of its employment. If agriculture or commerce would furnish it, there could be but few paupers; if it requires the aid of manufactures, and all are insufficient, then they must be increased till they meet all the demands for labor. Until it can be made to appear that the population of towns decreases with the extension of their manufactures, and that experience demonstrates that there is a proportionate increase of poor rates, the comparison is again forced on us, and the national character of the objection may be fairly tested by estimating the relative amount of poor taxes in large commercial and other places. If the objection should prove to be well founded, it would only apply to those branches where the greatest portion of the labor is performed by machinery, as cotton and woollen; but it could not, by possibility, extend to those whose operations are almost exclusively manual, as glass, paper, cutlery, shoes, clothing, &c. The necessary consequence of the advancement of those manufactures must be the increase of industry, and the decrease of pauperism. As the objection can therefore only embrace, in its fullest latitude, but a few items, it is deemed unimportant; as to those, it is believed to be without foundation. The Waltham factory employing two hundred and

sixty persons, it remains to be proved that its machinery deprives that number of an employment they would otherwise have from other sources.

*No further protection is necessary.*

If this objection is founded in fact; if it be, indeed, true that manufacturers need no further protection; that the national objects which call for their encouragement are already accomplished, the committee would deem it a truly happy consummation for the country. If this is understood to be alleged by the friends of a general and equal protection of national industry, as well as those opposed to it, it would seem that further aid would produce no benefit to the one, or injury to the other class. If the present duties have excluded foreign articles, and secured our markets to our own citizens, it cannot be perceived how higher duties can have a good or bad operation. They must have none; and thus all the interest that the proposed measures have excited, of hope on one side and fear on the other, is, that additional duties might diminish the importation of articles already excluded. If the objection is understood as coming exclusively from those opposed to the general policy of protecting duties, it presents the great question only in another form; but if it has its origin with those interested in any particular branch of manufactures which may be now so protected as to command our market, we are bound to believe that it is intended to apply to their own appropriate branch only. It would be too serious an imputation upon their patriotism and sense of common justice to charge them with assuming to their own establishment a national character which could belong to no other, and a disposition to withhold from others a small portion of the legislative guardianship which has been so liberally imparted to them. It would be at once boldly and avowedly aiming at a monopoly, and asking Congress to be partial in their measures. It would confirm the objection, which is pressed with much zeal as well as warmth in the various memorials, that protecting duties tend to create a privileged order of great capitalists, supported at the expense of the nation. It would effectuate the objects of those who wish to impress the nation and the Government with the belief that the encouragement of manufactures is for individual emolument, and not national interest. It would sanction the principle that the powers of this Government are only to be exercised in favor of enormous money capitals, leaving humble industry to struggle, unaided, against foreign competition and domestic indifference; that the employment of machinery, and not of manual labor, was worthy of encouragement; that one item of clothing alone was so supremely important to the nation, that all others must be overlooked. We ought to hesitate long before we give way to a conviction that manufacturers would expose themselves to these reflections. If their opponents could wish the advocates of equal protection to descend from the high ground of national principles to private speculation; to contend for principles unjust and partial in their practical effects; and to present them-



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selves before the National Legislature in a contest for the exclusive protection of capitalists, or of one branch of industry to the destruction of others, no means would more readily suggest themselves than to associate, as an ally, the proprietor of some overgrown establishment, already protected by a duty of 100 per cent., to aid them by the declaration that "we want no further protection." Though the effects might be somewhat lessened by a suspicion that others than those interested alone in manufacturing interests may have furnished a part, at least, of the enormous capital, and thus be concerned in the monopoly of one article by manufacturing, and of all others by importation; yet it would, in some degree, tend to support an objection which, when fully examined, will afford a very strong reason for giving the protection called for.

Viewing it, as the committee hope they may truly do, as one of the numerous arguments against a general system, they proceed to an examination of its application to the present tariff. It would be tedious to take each item in detail; one is selected, on which is imposed the highest ad valorem duty—coarse cottons. The nominal rate of duty on this article is 25 per cent.; the real, according to an estimate of high mercantile authority, 83. The beneficial effects of this duty to the consumer of the article are well known and universally admitted, and have been fully explained by the committee. Since the experiment has been fully and successfully tried as to one important item, why not extend it to others? Why should the duties on coarse cottons be 83 per cent.; on linens, worsteds, stockings, silk, and iron, 15—a difference of 68 per cent.? If the effects have been so salutary on coarse, why not, by an increased rate of duty, bring the finer fabrics within the operation of the same wholesome principle? Why leave glass at a rate of duty which does not equal the foreign bounty? Why make the nominal duty on cotton efficient for 83, and leave the nominal duty on paper of 30 per cent. efficient only for 15, or, at the most, for 20 per cent.? When other manufactures are placed on the same footing as cotton; when protecting duties are imposed by a principle of equality, and graduated by some settled rule; when it shall exceed the ordinary and average amount of a mere duty for revenue, and an opportunity be offered for a fair experiment of its general tendency, then may be the time to urge that, if the experiment is successful, the article wants no further protection; if it fails, that there is something of a peculiar character attached to it, which, as to any given article, prevents that connexion between causes and effects which exists as to others. The complete success as to one article is the best evidence of the good policy of extending the same rule to others; affording, at the same time, strong practical proof that, when carried to the proper extent, legislative protection to manufactures results in the reduction of the price to the consumer.

When this is the effect, the protection is to the people, not to the manufacturer; the saving of the price is the "economy to the consumer;" he is

protected by not being compelled to purchase the foreign article of an inferior quality, and at a higher price. The reduction of the present duty on cotton goods would, by destroying the domestic competition, bring the article to the same price it bore before such competition existed. From the great reduction in the price, it is evident that there must have been a great profit arising to the foreign manufacturer, or the importer, which was paid by the consumer. The article must come to him at the old price, in order to make the same profit accrue to the domestic manufacturer; if it come at a less, then the real and efficient protection is to those who buy it; they are protected from paying the higher price. The true application of this word *protection* will tend to unite opinion on this most interesting question; if it means protection to the people, to the mass of the nation, by reducing the price of the article used, and increasing the means of payment, there could be no national objection to it; as little could there be, if protection was understood to be the guarding the people against the operation of foreign laws and systems of government, associations and combinations of individuals, which tend to enhance the price, and to depreciate the means of payment. It could not then be said that no further protection was necessary, until the protection was complete; till it extended to all items where it was required. The committee wish it to be distinctly understood, that this is their definition of *protection*, and, when it is used by them, it means protection to the consumer. They disclaim that definition or application which makes it consist in protecting the manufacturer against the interest and sound policy of this country—of protecting him in speculation or monopoly, at the expense of the people, or any national interest. We recognise in the manufacturers no claims to exclusive or any other protection than what is due to others; we view them as other classes, as men engaged in other occupations and pursuits in life, entitled to protection as instruments for promoting national and general prosperity; as men by whose agency the public good and the general welfare will be advanced. If they can effect this object, and with profit to themselves, it is to us a subject of congratulation, and will become one of pride, if the measures we have devised have tended to produce it. But, if it only adds to their individual emolument, we renounce it as an object which is equally repugnant with our intentions and feelings. Believing, as we do, that "economy to the consumer" is best secured by the domestic supply of our demands, domestic manufactures are the only efficient means; as such, we think them entitled to national protection. The same principle applies to commerce and agriculture; they are but the varied means of supplying our demands, and, like manufactures, are the component parts of the great system which is necessary to secure the great object of all sound policy—"economy to the consumer."

The three great occupations in society are, agriculture to produce, manufactures to fabricate, commerce to distribute, the articles of consumption. The first and the third are admitted by all

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to be of infinite importance, worthy of all protection; both have received it. Sound policy has never suggested a doubt that the production and distribution should be domestic. The country, with one united voice, has declared, and yet declares, that "economy to the consumer" consists in not being dependent on foreign soil to produce, or foreign shipping to carry, the supplies of our wants. Yet it is much divided on the policy of dependence on foreign labor and foreign machinery for fabrication. This is not deemed the least important item; without it, production is useless, and, except food, no materials would exist for distribution. The manufacturers, to meet our demands, must exist somewhere; shall they be in a foreign country, or our own? is the great question. To decide this, it would seem to be sufficient to apply to this item the same reasons which have led to the unanimous conclusion in relation to the other two; or to show, by any cogent reasoning, and from clear experience, that it is safer, sounder policy, more conducive to "economy to the consumer," to place the command of that item in the hands of foreigners than our own citizens. Domestic agriculture has the command of our production; domestic shipping of our distribution; why not domestic manufactures of our fabrication? If experience has not justified the remark that the protection of agriculture and commerce has been a tax on the consumer, neither has it as to manufactures; hitherto every result has been economy to the consumer. This Government did not say to commerce "You want no further protection," until it had attained a monopoly of the coasting trade, and nearly so of the foreign. It does not now make the remark because a few merchants, with large capitals, and by successful enterprise, can continue their operations; the old, continues, and new protection is added; enough is not given till the object shall be accomplished. The object a national one—the command of our distribution—is it unreasonable that, so far as fabrication is a national object, it should be protected to consummation? It is not to draw invidious distinctions, but to show their impropriety, that it is deemed proper to observe, that, if the protection afforded to commerce has enabled those engaged in its pursuits to acquire princely fortunes; or, if they have been the consequence of their enterprise and intelligence, it has been deemed evidence of the general prosperity. The acquisitions of commerce have not been charged as "fleecing" the rest of the community; "merchants have not been designated as an organized corps, distinct from the rest of the nation, aiming at exclusive privileges at the general expense." Theirs has not been represented as an interest which, of necessity, draws a line between their emolument and the public good. If foreign nations want our produce, they will come here for it; if we want their manufactures, they will bring them to us. It is not, therefore, from necessity, but a conviction of general economy, that has led to our settled policy of giving such protection to our shipping interest as will enable it to do what is indispensable for our wants. Merchants are not considered as men who do not

feel a common regard for the general welfare—so divided from the rest of the nation, that their interest is necessarily in opposition to all others.

They are not called an organized corps when they unite in petition to us to save them and their interest from foreign policy; they are not repulsed by the charge of exclusive interest, privileged orders, bounties, premiums, and monopolies. If those charges were applied to them, proof would be required of their truth; it would be illiberal to make them, unless it was clear and convincing. When they are applied to manufacturers and their petitions, common justice would dictate the same rule; that when they ask for protection against the same foreign policy, the same laws which bear with the same force on commerce and manufactures, charity should be so far extended as to admit that, however mistaken their opinion, they craved no object adverse to the interest of the country, but made it the basis of their requests. Though they may be less capable of judging than others, they may not be more selfish. Experience may be assumed to be the safest guide; it does not justify the objection that more enormous wealth has been accumulated by manufactures than agriculture or commerce, or that what has been acquired has been more at the expense of the nation. The chain of mutual interests which connects society does not separate manufactures from the common mass. The ties of mutual dependence and support, which form a nation into a family, which lead all to consider themselves as parts of a great whole, are not of necessity dissolved by their pursuits or their interest; they are of no distinct caste, and most of them are engaged in other pursuits. Manufacturing capital is made up by the acquisitions from other sources; the labor is supplied by the want of other employment; and it is believed that in this, as in all others, there is an intimate connexion with national interests. The greatest manufacturing establishments are in or near our commercial cities. Who are their proprietors? Whence is derived their capital, labor, and how far their success or decline has a correspondent bearing on the value of property or produce, the poor, the industrious, the farmer, the mechanic, and the mass of population—how far they present an interest distinct from, or connected with, those who compose the circle of society, can well be ascertained by those who represent the districts which contain them. The records of this House afford no bad criterion. The protection of manufactures, as an important item of national industry, is not asked for by manufacturers alone; a reference to the petitions will show that their numbers are few; all classes have united. It cannot, therefore, be in public opinion, or in practice, that we can discover the evidence of their being a class excluded from common feeling and general interest. So far as the opinion of petitioners is entitled to any weight, those who have called for an auction duty have given one entitled to no small respect—they require it for the protection of commerce, manufactures, and agriculture. A reference to those petitions, to the various occupations of those who have signed them, will not fall short of

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conclusive proof that, in practice as well as in principle, there is such a connexion between the three great branches of national industry—production, fabrication, and distribution—as all to require protection, and to be capable of receiving it by the same act of legislation. But though we cannot but think that the union of all classes of citizens in favor of the protection of these three greatest interests is strong evidence that there is no discordance between them, it must not be understood as implying that no such discordance does exist, because the measure required for the protection of one is called for only by those engaged in its appropriate and peculiar pursuits. Those through whose direct interest a national injury is inflicted feel it the soonest, and must be the first to complain; the inquiry should be, not who complain, but is the injury sustained? must it be redressed? and by what means? If protection is required, it should be to the extent of the injury; and, if no further protection is wanted, it must be because the injury has been redressed, the cause which produced become inoperative, and a sufficient guard supplied to prevent its recurrence. What has been done, is not an inquiry dictated by national feeling, but the good or bad effects it has produced; what ought yet to be done can then easily be ascertained—it is by selecting the legitimate objects of protection, and making that protection effectual. If economy to the consumer and defence to the nation are already secured, it cannot be necessary, and may be unwise, to proceed further; the situation of the country affords the best means of deciding. Protection is not asked against our own Government, or the interest of our own citizens, but against foreign. Freedom of trade and occupations consists in the perfect liberty of pursuit, without any legislative partiality or preference; to be governed entirely by mutual or general interest. That freedom is destroyed by foreign as well as domestic legislation and interference. If there was neither, there would be nothing to protect against; industry would be left free to select its application; a pressure which bears upon it with a given weight, must be balanced with an equivalent protection before it can become free. That there is this foreign pressure is admitted; its extent cannot be estimated, for it is made up by a complex and intricate system of policy, that varies in its application to different objects. Being more versed in that of England than other countries, it is selected as an illustration; and, being bound by our convention with her to impose on her products no higher duties than on those of other nations, they must be uniform; but as our greater portion of manufactures is imported thence, our duties should rather be imposed with a reference to the pressure of the system which bears on the greater, and not on the lesser portion of our importations.

A bounty or an excise drawback is a direct pressure to the nominal amount; it is the difference in the price of the article to the British or the American consumer. The English Government makes it dearer to their own people than ours by the amount of the drawback and bounty; a barrel of

beer drank in England costs three dollars more than if exported to France and drank there, (deducting charges of exportation and freight.) When a code gives a direct bounty, the effect can be measured; but the indirect drawbacks and bounties have a more serious effect. Taking the amount of taxation in England to be at any rate, say thirty per cent. of the income of all the property and all the products of the kingdom, and it is so apportioned as to leave those products and occupations untaxed which are for the supply of articles for a foreign market, and a double amount on such as must be consumed at home; for example, if, instead of an excise of thirty per cent. on cotton, woollen, linen, iron, glass, hardware, crockery, none is imposed on these manufactures, and sixty per cent. is imposed on spirits, malt liquors, paper, &c., the sum of taxation is the same. Thirty per cent. is paid in the aggregate, and should be added to the cost of manufacturing. On the article which pays none, this thirty per cent. is a bounty, and the effects to us are the same; it is an exemption from taxation, a real drawback. When, then, a comparison is made between the expenses of manufacturing here and there, the average rate of taxation must be allowed for, not its particular apportionment. Does, then, this system operate as a pressure on our industry, or to its aid? If the effects of bounties, drawbacks, or exemptions, were to add to the resources of this nation, and diminish those of England, it is difficult to assign the reason for its continuance. We risk much by acting on the belief that the Government of that nation does not understand its interest; a simple calculation will settle the question. Take any given article of manufacture; compare it with the value of the raw material required to make it; the difference of the price is made up of the labor bestowed upon it and the subsistence of the laborers. Iron ore will not pay freight; it has then no value, unless in a country where iron is made; a ton of bar iron, worth one hundred dollars, derives all its value from labor and subsistence; it gives a new market for so much of industry and the products of agriculture; and as much as this market is worth to the nation, so much is every ton of iron worth in clear profits when it can be exported, and those profits drawn from another country. Such a bounty is then given, as, being less than the profits accruing by the making of iron, will make its export a profit. It is not credible that a bounty greater than the general profits accruing would be given by any Government not mad. The nation, then, who buys the iron pays the profit, and not the nation that, by paying the bounty, secures the profit. If clay, and sand, and ore, can be turned into money by such means as bounties, drawbacks, exemptions, as will still leave a profit, it is easy to see that the profits accrue to those whose otherwise worthless products become valuable, and not to those whose products remain by these means forever worthless.

If the profits derived by the various interests in England were not more than a penny-halfpenny a yard on coarse linen, or twenty-five shillings a hundred on glass, the Government would not pay that bounty; if a profit remains, it is paid by those

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who buy their linen and glass. If, by means of those bounties, &c., they draw these profits to themselves from us, and leave our ores, sand, clay, of no use; deprive the farmer of the market for subsistence to the laborer, who shall otherwise be employed in manufactures, then it becomes the duty of our Government, by a resisting defensive system, to protect our raw materials, labor, and provisions, to give to our citizens the profits of converting them into articles of use. That duty is of the most inoperative kind, if all the occupations of the country are now unprofitable. The farmer raises more than he can sell; he has no inducement to raise more; the country can derive no benefit from increasing a surplus now unproductive. There is labor enough in the country for all the profitable pursuits of agriculture, and to manufacture all the articles for our consumption; all the raw materials are in abundance, or may be made so. Protection shall end, then, only after securing employment from all.

*That the increase of duties will lead to smuggling.*

This is an object depending so much on opinion, that it is difficult either to support or rebuke it by facts. If its existence to any great extent was known, the records of our custom-houses and courts would afford official evidence; but, unlike other crimes, the extent of this can only be ascertained by detection; it may prevail to a very considerable degree, yet the evidence of it be beyond the means of procurement. While, therefore, it cannot be reasonable to ask for the most definite proof from those who urge it, it may not be too much to expect that the objection would be supported by strong reasoning and probable inferences. The suggestion ought not to be listened to with too much readiness, as it imparts a severe reflection on the character of our countrymen, and holds out the Government as unable to enforce the payment of a duty imposed for revenue or policy. Judging from the uniform practice of Congress, it seems that the fear of smuggling has not deterred them from increasing the duties for the aid of the revenue. When additional sums have been required, additional duties have been imposed, and always, it is believed, with the desired effect. At the commencement of the late war, the duties on imports were doubled, certainly not with a view to the protection of manufactures, when the war precluded foreign competition, and the law was limited to one year after the conclusion of the peace,\* but solely for revenue. The war duties continued until the 1st of July, 1816, a period of near eighteen months after the peace; they were, on an average, much higher than those proposed in the bill of last session, and afforded a fair criterion by which to judge of the tendency of high duties to increase smuggling.

The committee have not perceived, in any of the memorials which dwell on this objection, the period which elapsed from the conclusion of the peace and the commencement of the present tariff, selected as one which exhibited evidence of the

increase of smuggling. These memorials are from gentlemen of great mercantile experience, guided by their own and the observation of others; if they have not been led to select this period in our financial history as the era of smuggling, it is a fair inference that, in their opinion, none has existed. That inference is much strengthened when we find them unwilling or unable to point out in our tariff an article the revenue on which has been diminished by the increase of duty, but compelled to resort to the example of a foreign Government, to overlook the experience of our own, in order to procure proof of their suggestion. In selecting the articles of tea and coffee as those which were dangerous to tax high, it was most prudent for them to refer to the British tariff and not to ours;\* as the one may support, but the other directly contradicts their supposition. The selection of a foreign precedent is at best presumptive evidence that no domestic one would confirm their position. Until that presumption is rebutted, and evidence adduced more satisfactory to the mind than the uniform and successful practice of the Government, the official documents from the Treasury, and the inferences which irresistibly follow known facts, the committee must think this objection founded more in conjecture than fact.

The annexed statement will very clearly show that the amount of importations and revenue is not in an inverse ratio to the rate of duty. An inspection of the existing tariff conclusively shows that the highest duties are those imposed for revenue merely, with some few exceptions; the difference between those imposed on teas, spices, wines, and spirits, and on manufactured articles generally, is very great: on mace it is one dollar a pound, on bar iron seven mills and a half; on teas averaged thirty-two and three-tenths cents per pound, equal to one hundred per cent. ad valorem; on linen and worsteds fifteen per cent.; on manufactures, the same duty is imposed on the coarse and bulky as the fine, on articles of necessity as luxury; blankets and silks at fifteen. Smuggling would never have entered into the minds of the Legislature, in such an apportionment of impost; mace is easier smuggled than bar iron, teas than blankets; yet on these high-taxed articles the fear of smuggling does not seem to dwell; it rests only on manufactures. So far as protecting duties have been raised to the height of revenue ones, it seems to have justified no such fears. Coarse cottons are at eighty-three; it is admitted that this article is nearly, if not quite, excluded; it is, of course, not smuggled. It may then be fairly inferred that the duty on other manufactures, equally bulky and not more valuable, might, with equal safety, be advanced to this extent; if less bulky and more costly, to fall proportionally short of amount could not be an unsafe standard; or, if this is thought too high, the average duties of 1815 and the first half of 1816 cannot be objected to. Assuming either as the basis, and comparing them

\* Afterwards extended to 30th June, 1816.

\* Memorial of a convention of delegates in Philadelphia.

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with the bill of last session, the committee entertain a confident conviction that it would be entirely unaffected by this objection. It is, indeed, incredible that a duty of twenty-five per cent. on crates, glass, iron, linen, hardware, cutlery, &c., could furnish inducements to smuggling, which are not even alleged to exist as to articles of more value and charged with a higher rate of duty. Such belief could not, in the minds of those who entertain the fear, amount to conviction, since they have not selected an item from our tariff, or appealed to a fact in the history of this country. Again, it may be remarked that, when the experience of other countries is not supported by ours, it is not sound reasoning to urge the propriety of basing our legislation on a state of things which does not exist here. It is well known that, in proportion to the amount of imports, there is more smuggling on our Northern and Southern frontiers than on the seacoast; the rate of duty being the same, it must be owing to other causes. Separated from the dominions of foreign Powers by narrow seas, rivers, or territorial lines, facilities are afforded to the illicit introduction of merchandise which are not within the reach of those who must cross an ocean in a large and valuable vessel; whose arrival, destination, and departure, are notorious, and announced in numberless papers, and watched by revenue cutters. The vigilance of our officers, aided by all the efforts of individuals, is wholly incompetent to watch an immense frontier, most of it a wilderness. He would surely be an unwise statesman who, because there were found examples of smuggling there, would change a fiscal or political system to meet such cases, which will exist, not only while there are high duties, but while there are any. The same obvious reasons will apply to England, or any other European nation; and these may be the causes which have led to the selection of an example from abroad. There, smuggling is not carried on in sea vessels which are entered at the custom-houses, but in boats which pass in the night. The Isle of Man was a principal scene for illicit trade; since its sovereignty has been purchased by the Crown, it has ceased. The contiguity to foreign nations affording means of unlawful communication, is the principal source of this danger. It is not carried on by merchant vessels fit to navigate the ocean, and cannot prevail to a great extent here. It cannot be the meaning of the memorialists, that the merchants of our country would engage in, or countenance, this illicit and immoral traffic; no others would have the means of doing it, especially when doubly watched by a class of men who have paid the duties on their own importations, and do not want intelligence to discern their interests, or vigilance to guard against all attacks, open or covert.

*A tax on the many a bounty to the few.*

Of the numerous objections which are urged against the proposed measure, there is none which carries with it more plausibility, till examined, or would be more conclusive, if true. The committee most freely admit, that, if a general system

for the protection of manufactures is necessarily a permanent tax on the community for the mere benefit of those engaged in them, it must be radically wrong, and partially so, as the same effect follows the encouragement of particular branches. Disclaiming the word bounties as wholly inapplicable to any part of the bill, they are willing to test it by the principles laid down by its active and intelligent opponents. "There is, however, an argument in favor of encouraging particular employments by bounties and taxes, which merits a different consideration. It has been justly urged that there may be occupations peculiarly adapted to our situation and character, and which, if once established, might be carried on better here than elsewhere, so as to afford their productions at a cheaper rate than is now paid for them; and yet habit and indolence, and the natural attachment of men to the pursuits in which they have been educated, and the immediate expense of commencing the business, and the want of that skill which only time and experience can give, and a doubt how soon or how certainly the profit may be realized, may deter individuals from engaging in those occupations, and induce them to persist in others less profitable to themselves and the public; and that if these difficulties can be overcome by a present tax, which will be more than compensated by the reduction of prices hereafter, it is good policy and economy to impose it. On this principle, encouragement has always been given by our Government to particular pursuits, and it should always be given to the full extent that this principle will warrant. By its adoption, the whole subject is made a mere question of economy—of economy to consumers, who are all the people; and it becomes our duty to study not how to make manufactures dear, but how to make them, on the whole, cheap and abundant. The best, and perhaps the only mode of doing it, is to promote competition at the lowest prices."<sup>\*</sup>

A general acquiescence in these sentiments would leave for our consideration only the question of their application. In ascertaining the most effectual means of promoting national industry, it is truly gratifying to find both sides starting on the same principles; this gives them a stability which saves the trouble of examining their soundness. It would be indeed useless; for who will deny that "economy to the consumer" should be the guiding maxim for individuals and legislators? The meaning of the term cannot be understood. Economy, whether individual or political, is probably not a very complicated science, when studied not by theory and speculative reasoning, but the book of practical life and experience. Principles, to be correct, must be drawn from practical observation more than reasoning; if to be applied to theory, they may be drawn from the same source; but, if intended for universal practice, they should flow from the lessons of experience. Practical economy to the consumer teaches him to procure what he wants at the cheapest rate, and that mode is cheapest by which he can buy

<sup>\*</sup>Report of the Boston Committee.

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with the least labor and expense. The price of an article is not its nominal rate in dollars, but in the quantity of a given article which will procure it. Assuming any sum as the standard price of any article, the great question for the consumer is, how to obtain it on the best terms; how to exchange his own surplus productions for those he needs, to most advantage; to select the object on which he may employ his own industry so as to realize the greatest production. If the mere transfer of the same labor from one object to another will enable him to attain his ends, it is his interest to do it. If, for the reasons stated in the above extract, and the powerful ones which result from the policy of foreign Governments, such transfer becomes useless or impracticable, the interference of a Government which would remove these difficulties is not coercive on its own citizens, but becomes auxiliary to their wishes and interest. If a foreign Government allow an enormous bounty on a manufacture, the raw material of which is excluded by law, or duty, or the difficulties and expense of its transportation, and thus break down all domestic competition in the supply of an article of which every consumer would furnish the rough material, it would not be an arbitrary measure if Government should create the competition, transfer the manufactory to its own jurisdiction, and thus give the consumer an option of paying for it with the produce he could easiest raise and most conveniently spare. A farmer, in devising the means of clothing his family, will at once inquire into the most economical means of doing it. He has on hand a surplus of grain, wool, flax. The stores in his neighborhood groan with imported goods from England. But the merchant cannot export grain, flax, or wool. England excludes them; she has enough of her own; and as we purchase our buttons, woollens, and linens, from her, there is no resource but to purchase on credit. If a manufactory were within his reach, he could exchange the material for the manufacture; this affords him the only means of exchange or sale. If there were no manufactories, and Government would build them up by imposing duties on foreign fabrics, such duties would not be a tax on the farmer, but an efficient bounty, by giving a value to his otherwise useless products. It will scarcely be contended by those who so loudly protest against a forced transfer of occupations, that the farmer may turn spinner, weaver, bleacher, dyer, fuller, &c. His occupation is the extraction of the produce of the earth, and he has a right to ask of the Government that they adopt such a system as shall make it most valuable.

Competition is the security of the consumer against imposition in what he buys, and of a market for what he has to spare. If the articles of consumption are supplied by importation, the competition is confined to three classes—the foreign manufacturer and exporter and the American importer; theirs is a struggle for the sale of the manufacture, which can only diminish the price; but as the provisions and the raw materials raised by the mass of consumers are prohibited, there can be no competition for their purchase. But to the

farmer this reduction of price produces no benefit. Price is composed of two items—the rate of the thing sold, and the rate of the thing received in payment. Economy to the consumer is the low rate of one, the high of the other. The competition for provisions and wool being now entirely domestic, the price is necessarily limited to home consumption, and cannot be affected by the price of foreign importations, but only by a diminution of the quantity. If the price of the finest British broadcloth was reduced to eight dollars a yard, it would, at the present price of wheat, cost the farmer sixteen bushels a yard—of wool, sixteen pounds; if the cloth should rise to sixteen dollars a yard, wheat would not rise to one a bushel, and wool to one dollar a pound, unless the domestic demand increased in the same proportion; this would be impossible, unless accompanied with a proportionate increase of domestic manufactures. If all our supply was by imports, their price could have no bearing on the price of domestic articles, which would not be received in exchange. Can it be doubted that the system which insures this exchange is true economy? If our woollens are made at home, the price of the fabric will be governed by the price of materials; the rates are immaterial; one pays for the other; competition will regulate them by a just standard. The tax on the importation becomes a mutual benefit; it operates not to force the farmer from his occupation, but to secure him the choice of products, by rearing up new establishments, to furnish him with a market for his raw materials, say of wool, flax, and hemp. By abstaining from the imposition of such duties on the foreign as would open our markets to the domestic products of those articles, the farmer is, in effect, forced from his occupation, and prevented from raising them. Foreign bounties produce the precise effect which is so much dreaded from our laws; foreign restrictive systems virtually compel our farmers to confine their labor not to what they can produce with the greatest ease and profit, but what suits their Government to receive, thus effectually preventing the consumer from consulting his economy, he is obliged to look to foreign laws to know what productions he shall raise to supply his family with food and raiment, utensils and furniture.

That system of dealing among the members of the same community is the best which produces such exchange that the wants of the one may be supplied by the surplus of the other. If our habits of intercourse with other nations have kept off the adoption of the system of exchange among ourselves, and those nations will not agree to its adoption; if, in consequence, we look round this country, and find that the aggregate means to supply the wants of all are most abundant if properly distributed, yet there is general distress, because the surplus of one article cannot supply the deficiency of another, it cannot be an unwise or an oppressive regulation of Government which would at least remove foreign restraints and interference, so as to leave our citizens in the uninterrupted selection of their pursuits and modes of employment. It cannot be sound policy to suffer them to remain under

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this external coercion, and influenced by the fear of a restrictive system, adopted by a paternal Government of our own choice, yet submit to one imposed on us by one between whom and this people there can be no common tie. To guard the consumer against the maker and seller of an article, competition is most effectual. If it be safe to have it confined to foreign and mercantile, it may be equally so to have it domestic and manufacturing. Those who prefer the former will protest against protecting duties; the second will advocate them; and others so apportion them as to enable both to come into the market on equal terms. If the commerce of the world was free, a low rate of duty would suffice; while it is restricted, there must be as much tax as will counterbalance foreign interference, and afford the opportunity of exchange. Whether the rate of duties, so low as to leave the supply of our consumption at the command of one class, so high as to throw it into the hands of another, or the medium between revenue and prohibition ascending to the one or descending to the other point, as the economy and interest of the consumer may require, can better be settled by experience than reasoning, it is believed that acknowledged facts leave no room to doubt. The duty on coarse cottons being prohibitory, the supply is now entirely domestic; the quality is better than the imported, and the price to the consumer reduced more than forty per cent. The protecting duty is, then, no tax on the many—no bounty to the few. But the additional forty per cent., allowing nothing for the quality, was a direct tax on the whole community for the benefit of the importer. The amount of this tax paid and bounty will appear from a statement furnished from a report which dwells much on this objection to manufacturers.\* “From the most accurate information, founded chiefly on official documents, it appears that, from the year 1800 to the year 1812, both inclusive, the duties received on the importation of the coarse cottons of India amounted to more than \$3,936,000.” During the first four years of this period the duties were twelve and a half per cent.; the last eight, the Mediterranean fund added made them fifteen, averaging about seven dollars of goods to one of duty, equal to - - - \$27,552,000. The same number of yards of the same goods of American manufacture would cost forty per cent. less, equal to - - - 11,020,800

Leaving the price of the domestic at \$16,531,200

Thus the imported article costing \$27,552,000, the domestic \$16,531,200, the difference, \$11,020,800, has been paid by the people; deducting duties, \$3,936,000, leaves \$7,084,800, paid by the consumer to the merchant, more than would have purchased the same quantity from the manufacturers—a tax of \$545,000 a year. This presents a practical illustration of the objection now under consideration—the tax on the many, the bounty to the few. But the few were not manufacturers; the

premium was not paid to them. If such have been the salutary effects of the high duty on cottons, it ought to be a most instructive lesson, and induce us to extend the same protection to other articles of clothing.

This is not a solitary instance in the experience of the country; the same effect has been produced by high duties on nails, gunpowder, and every high taxed article of manufactures; and it is believed that there is no instance of the increase of the price of any article the high duties on which have secured our market to our own manufacturers. Had there been any, it would probably not have escaped the attention of those who so zealously oppose the increase of duties. In tracing the progress of manufactures in other countries, it is universally true that the nation which has the materials, and manufactures for itself, can undersell others; and hence, our best and greatest statesmen have laid it down as a maxim, that domestic competition will always tend to the reduction of the price—a maxim not only consistent with reason, but supported by fact and experience. It is not, therefore, without some surprise, that it should be so generally alleged, by the opponents of protecting duties, that they are a tax on the many to enrich the few. It may comport with the theory of foreign writers on political economy, but the allegation has not grown from experience here, or elsewhere, but is contradicted by uniform and admitted facts. Manufactures are not the work of yesterday; their tendency is not for the first time to be now ascertained; enough has been seen and witnessed in the past, to afford a guide for the future; and if there is safety in any path, it is that which has been lighted by the practice and experience of years in this country, and almost centuries in others. It is indeed, not easily conceived that duties short of prohibitory can easily operate as a bounty to the manufacturer; if the price of the article advances with the duty, it still leaves the same profit to the importer. Duties are no burden to him; he obtains a credit equal to what he allows, and the amount of the duty is an addition to his capital. The manufacturer can derive no benefit from a duty, unless it checks or excludes the foreign importation; while imported goods meet him in the market, the price is indifferent to him; be it high or low, it excludes him from the competition, while the importer can have a profit. The duty begins only to operate in favor of the manufacturer when the quantity of the foreign production comes to be diminished; if it remains the same, it adds only to the amount of revenue. The ad valorem duty of thirty per cent. on paper and cut glass is no bounty to the owners of paper mills and glass works, while foreigners supply us; if it excluded paper and glass, and the proprietors exacted from the consumers, so that the market price of paper and glass would advance to the same amount, importations would be resumed and continued until the prices were reduced below competition. High prices would create and tempt it; the interest, therefore, of manufacturers would impel them not to expose their establishments to continual fluctuations, by the ebbs and flows of imports. An absolute prohibition might

\* Boston Report.

enable them to exact from the community; time will ascertain the point at which the rate of duties might amount to it; but it is difficult to conceive that mere rates of duties, which do not exceed those imposed on articles taxed purely for revenue, can prove dangerous or injurious to the consumer; and, with such duties, no other mode can be discerned by which the domestic market can be secured but low prices. The reverse of the proposition is undoubtedly true; low duties could not take the market from domestic goods, unless the imported were cheaper. On what other reason to account for the exclusion of coarse cottons, the committee are unable to imagine. If the eighty per cent. duty was a bounty to the manufacturer, it must be by adding that amount to the price of his cloth; the foreign, if of the same quality, would command the same price. Reason and experience alike assign the true cause—the diminution of price. There may be a period between the imposition of a new duty and the domestic supply of our market that may be one of high prices; but “if these difficulties can be overcome by a present tax, which will be more than compensated by the reduction of prices hereafter, it is good policy and economy to impose it.” True legislation is not ephemeral; it looks beyond the present to the future, laying the foundations of national policy commensurate with all the great interests of the country; it will build up a system, not of temporary, but permanent protection; it will not be retarded or withheld, from a fear that a monopoly of either domestic manufacturing or domestic navigation will tax the many, give a bounty to the few, or raise up a privileged order, dangerous to the liberties, or injurious to the welfare of the people.

*A restrictive system.*

It is said that this country is about adopting a restrictive system, when others are desirous of abandoning it, and their best statesmen are convinced of its bad policy. When terms are used as weapons, it may be useful to inquire into their meaning and application; the same measures may acquire a good or bad character, as they may be called parts of a system of revenue or restriction. Impost, as a means of taxing the consumption of the country for the support of Government, and prohibition, for the purpose of creating and maturing the subjects of an excise, are fiscal measures, acknowledgedly proper to meet the exigencies of the nation. The Secretary of the Treasury has recommended that if any revenue law be passed for the aid of our finances, it be one of the latter description—a prohibition of foreign, an excise on domestic spirits. No complaints have been heard against the proposition, and perhaps none would be heard if it had embraced iron, glass, paper, cottons, or woollens. Though the direct tendency would be to give the monopoly of the home market to the domestic manufacturer, yet, emanating from the Treasury, the same fearful consequences are not anticipated as if it could be traced to a different source, and its leading motive the promotion of other objects. The resources of

the Treasury have failed; it is of no importance to the people whether there is a prohibition of foreign, and an excise on domestic manufactures, for the purpose of filling the Treasury, and, by consequence, sustaining manufactures; or, for the purpose of fostering manufactures, and, by consequence, filling the Treasury; both objects are accomplished; which is direct and which consequential is immaterial for any other purpose than giving a name to the measure—fiscal in the one case, restrictive in the other. This consideration must not leave our minds when we review the systems of other Governments. At first view, they seem illiberal, and dictated by a jealous spirit of rivalry and monopoly; but, taking England as an example, and asking ourselves by what other means she could, from a small population, extract as large a revenue as would keep in operation the immense machinery of her mighty empire, we must admire it as a masterly effort of human policy. With less than double our number, she meets an expenditure of £50,000,000 by the receipts of her treasury. Her corn laws, her revenue and commercial systems, tend to the same great object. The former is the basis of the land and income tax; the latter of excise and customs. It is not so much from a system of hostility to others, but of self-defence to herself. This is evinced by her warehousing system, displaying a liberality worthy of our imitation. It is scarcely credible that her statesmen are willing to abandon those systems which have been maturing for ages, for others yet unknown and untried. The source of her revenue is now dependent, not on the fluctuations of imports, but the income, the property, as well as the consumption of the country; though each source may be extended to its maximum, none can be abandoned; and it may not be very uncharitable to believe the contrary opinions which many have expressed may be intended for exportation, with the benefit of drawback and custom bounty.

The example of other nations furnishes no exceptions to these remarks. The code of France, adopted at a late date, furnishes no evidence of a disposition to an abandonment of the same policy. She persists in the discrimination of the duty on produce imported in French and foreign ships, and, in a spirit of defiance, gives a bounty on South American cotton. Spain, at the moment of throwing off a despotic, and assuming a representative Government, has passed a corn law, and prohibited the importation of soap into her colonies. It would be a severe reflection by one Congress on another to charge the spirit which led to the adoption of these measures as flowing from jealousy and illiberality, and not a conviction of national interest. It would be a severe and serious reflection on ourselves, who, in the navigation acts of last session, extended to prohibition and non-intercourse the principle of what, when applied to manufactures, is called the restrictive system, but the character of which, in our opinion, does not depend on its application. Whether these measures are considered as commencing a new, or only following up the old system of discrimination adopted at an early period of our Government, whether re-



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taliatory, aggressive, or defensive, does not depend on the selection of objects for its operation. The shipping, produce, or manufactures of foreign nations are their assailable interests. We choose the one which will best insure our objects of coercion. Those laws embraced all the objects, yet they passed one branch of Congress with unanimity, and the other without discussion. It is thought unnecessary to press on the same Congress the unfairness of opposing or condemning the same principle, merely because of its application to different national interests. With France, the contest was, whose shipping should carry to her our cotton, rice, and tobacco, and bring back to us her manufactures, wines and spirits; with England, who should take to her colonies our timber, provisions, and live stock, and bring to us their various productions. If the mere carrying back and forth was worthy of a contest of legislation, and justified prohibition, non-importation, and non-intercourse, it was because it gave a value to the materials for ship building, labor in the construction, and employment to seamen in their navigation—objects, it is admitted, imperiously calling for a national movement to coerce their completion. But, though truly national, these objects embrace but a small portion of our population; extend to but a comparatively limited extent of territory; the benefits resulting are not alike extended to the mass of the nation. The number of carriers, compared to the consumers, is insignificant. To the latter it is infinitely more important that a market should be found for their provisions, the raw materials for manufactures. They cannot feel that it is not a wise policy in this nation to induce others to receive such articles as it is the interest of ours to export, but only that our ships may carry such as their policy may admit. The interest of the contest to a majority of the people, if their productions are excluded, at all events, is small; it makes no difference in the price. As little does it concern them who carries foreign manufactures to our market; it does not vary the demand for grain or materials. A single ship may bring a cargo worth more than the annual labor of a thousand men, yet not affording an item for exchange. To whom that ship belongs, is not the all-important question; where built, or how navigated; but what additional value its contents afford to the productions of our soil, the fruits of our labor. A few ships would suffice for the importation of the manufactures we consume, forming a small item in our navigation. The transportation of our surplus and now useless produce would present one far greater.

The carrying of all our exports and imports would not furnish a market for one-fourth of the materials, or employment to one-fourth of the labor, required to make the articles of our consumption. Yet it would seem that, while the policy of protecting, and even forcing, the one interest has been coeval with this Government, sanctioned by general acquiescence, continued to the present session, and persistence in it recommended, the same policy, as applicable to other greater and more general interests, is reprobated as destructive

to the prosperity of the nation. It is well known that, if success attend our attempts to effect a reciprocity of duties and regulations as to the ships and their cargoes, whether of our own or other nations, it will give to ours nearly a monopoly of transportation, and prevent competition. While this reciprocity is refused, we enforce a restrictive system, because France and England refuse admission to our shipping on equal terms. Equal justice would require that we apply the same system to their manufactures, while our provisions and raw materials are excluded. The expectation that either will give up one provision in their code is as reasonable as that they would abandon another. If they would cling the longest to any, and give it up the last, it might be their navigation. There can be no difference in principle between aiming at the repeal of their corn laws or their navigation acts. We ought not to be governed in our choice by the particular interest it might most affect, but the greatest national good it would produce. In adopting this as the criterion, it may deserve the inquiry whether, if the only great interest, or the only favored one of England, was manufacturing, it would be thought unwise or unjust in our national councils to endeavor to build up our own, either in retaliation or self-defence. If it would, then strong reasons indeed must exist for the constant, strenuous, and almost unanimous efforts to rear up and cherish our navigation. The measure so much complained of proposed no prohibition, bounty, or premium; the highest rates of duties on manufactured goods did not amount to the existing one on cotton; articles which interfered with our most important manufactures were classed lower than the most important items of consumption, and merely for revenue. It asked for no prohibition of intercourse to counteract foreign bounties, duties, or restrictions; it excluded no article of produce or manufacture, unless by its tendency to promote domestic competition, which, by affording a market for the raw material, enabled, and, by improving the quality and reducing the price, induced, the consumer to prefer the domestic to the foreign. Yet it has been, is, and will be, called a restrictive measure, illiberal in its design, ruinous in its tendency, oppressive in its operation, partial and unjust in its very nature and original conception; as an attempt to wrest the soil and the seas from those to whose use God had given them; "a measure which would doom the merchants to poverty, prohibiting their ordinary and honorable pursuits, presenting a horrid picture of prospective misery;" "striking deeply at the foundations of all true and enlightened policy;" "plunging deeper into measures of prohibition, restrictions on trade, premiums, bounties, and stimulants to rear exclusive interest at the national expense;" "an undisguised effort to coax or alarm our rulers into the ruinous project of coercing the farmers, planters, artisans, and merchants; to make crutches of agriculture and commerce, to support a body which, in the mania of speculation, has been dieted and swelled into an unnatural growth, too unwieldy for her limbs to sustain;" "to convert our seamen into skulking, profligate smug-

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glers, at an expense of taxation, national happiness, and legislative oppression;" "the vote of this House viewed with astonishment and concern; the reasons for it, a repetition of trite and exploded doctrines;" a "triumph of passion and interest over reason and justice;" "political quackery, which proposes to legislate a nation into wealth and prosperity;" "a call for a most onerous tax, with no view to national defence, (for this is not pretended by its candid admirers,) but merely to take some millions of dollars annually from the pockets of the agriculturists and merchants, to give as a bounty to manufacturers."

This is the character given to this measure; these are the motives ascribed for its passage, in the memorials addressed to us; if with justice, then there is much of our past and some of our present policy to condemn in relation to other subjects and other interests. Measures purely restrictive, and strictly prohibitory, have been prayed for by those who now so oppose this; with what consistency or regard to general interest, alike, opinions may vary. When they apply strong language, like the foregoing, to this proposed bill, to those who advocated and the body which passed it, they must have forgotten that the war duties were higher than those now so much deprecated; that they continued for eighteen months after the peace, and did not produce the fearful, dreadful consequences predicted from this. Those duties being imposed for revenue, and not followed by such effects, if those now proposed will produce them, it must follow that, not the provisions or enactments of a law, but the motives and objects of those who bring it forward, give it its character and control its operation; that prohibition and excise, if recommended from the Treasury, may be salutary; if asked for by farmers and distillers, ruinous and oppressive. Had the French tonnage duty, the non-importation and non-intercourse with the British islands and colonies been petitioned for by manufacturers, those measures must have injured and destroyed; as merchants prayed for them, they have benefited and saved commerce. Had the bounty on Brazil cotton followed the passage of the tariff, it would have been a curse; as it is consequent on the navigation acts, planters will view it as a blessing. Ought it not rather to be viewed as a solemn warning, a lesson of instruction, to teach us that, if we expect by our legislation to change the policy of other nations, it is safer to select new points of attack than to persist in one which has already more seriously endangered our remaining staple export than could have been foreseen? Is the allowance of this bounty a practical illustration of the explosion of all restrictions on trade, the adoption of liberal principles and free trade?

It cannot well be considered as a part of a system of restriction, that, in providing for the public expenditure, an excise on any articles of consumption should be adopted. In selecting for taxation objects which will bear it, they must be those which are permanent, not fluctuating. It may be necessary to create some, and to give stability to others. If the exclusion of foreign competition

is necessary to effect this, it becomes a measure of revenue and not restriction—of internal, not external policy; affording no just ground of complaint to foreigners, as they have no right to judge of our domestic legislation. To our own citizens it becomes a measure of restriction or benefit, according to its operation. In the present state of foreign markets, the exclusion of foreign spirits would open a domestic market for our grain, which in vain seeks one abroad. It cannot be called illiberal in us, but called for by self-defence. We may have as little cause to complain of their exclusion, as it results from a calculation of interest; our excise on domestic spirits becomes a mere matter of revenue, to supply the impost on imported spirits. Thus there may be mutual prohibitions, dictated by national interests, and yet consistent with the principles of free trade. In apportioning our imposts, for the united purposes of supplying the Treasury, giving a value to our productions, and employment to the labor of the nation, it well cannot, and ought not, to be called a system of restriction, unless, in its operation on foreign nations, or our own people, it extends beyond those objects, to individual or general oppression. If, in its details, the proposed bill contains features of this description, they are certainly objectionable, and the committee would be unwilling they should be retained; but, as they are unable to perceive them, as none of the memorialists have pointed them out, but confined their objections to general allegations, we must be allowed to believe that none of its provisions extend beyond the dictates of sound policy, and are undeserving of the strong epithets which have been so liberally applied to them.

*Destroy revenue.*

It is a very common objection that this bill will destroy the revenue, and make a resort to direct taxation inevitable. If this was an evil which would never befall the country under the present system, and would be a consequence of a new one, there might be much weight in the suggestion. But it must be recollected, that if we have not hitherto, and do not now, resort to direct and internal taxation, it is not because our revenue is sufficient to meet our expenditure; the aid of loans is indispensable. Internal taxation is now avoided only by borrowing, not because our other means are abundant; these loans are not in anticipation of the receipt of taxes already imposed, or merely temporary until an efficient system shall come into active operation, but made on the general credit of the nation, without any definite and certain provision for their repayment. If it can be called one, then our present system is not impost, but impost and loans; every change in the tariff, let the effects be as they may, can only change the proportions of the two items. Admitting it may become loans and impost by the new, it is not certain that it may not by the old. If it is not unwise or unsound policy to resort to the general credit of the nation in time of profound peace, no possible bad consequences can follow the adoption of the proposed plan. It is only the difference be-

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tween the people paying as they go, and paying interest; for the people must pay in the end. Loans are not revenue, and are to the nation what a judgment and mortgage are to an individual, binding the person, personal property, and soil. If loans are ever to be paid, and interest is not to be a perpetual tax on the country, we have already as much debt to redeem as the present generation is able to pay; the burden must be removed by us, or left as a legacy to posterity. If loans are injudicious, then other means must be resorted to to supply the deficiency in the Treasury; those means are, an increase of the impost and tonnage duties, or internal and direct taxes. If the former is the most eligible mode, then the bill of last session becomes necessary for revenue, and is free from the objection now urged; if it fails in this object, it must be because the present tariff is as high as the country can bear; in other words, because impost cannot be made efficient. If this is already so certain and clear that it is useless to even try the experiment, another mode becomes indispensable, and must be adopted immediately. What is that other mode? Direct taxes, excise, &c. It is conceived hardly necessary to examine into the expediency or justice of assessing on the real estate of the people a sum sufficient to meet the deficit of the Treasury, as it is believed to be within the personal knowledge of every member of this House that the farmers and landholders are unable to pay a tax on their lands. The depression of agricultural produce, the depreciation in the price of real property which is universal, the state of the currency, the want of a circulating medium, and the means of procuring it, forbid the hope that this would be an available mode. In the present embarrassment which pervades the whole country, it would be unjust and oppressive; the people have not the means or the ability; an attempt to coerce them would throw the Government into unnecessary expense, or enable them and speculators to purchase the fee simple of our soil. In this situation of the country, the committee would express their decided opinion that the imposition of this tax would produce evils of the most serious and alarming nature, and be equally repugnant to the wishes of the Legislature and the interest of the nation.

In looking around for other objects of direct taxation, none could be discovered which could materially relieve the public embarrassments. Excise seems to be the only expedient. Excise is, as well as impost, a tax on the consumption of the country; one operates on the imported, the other on the domestic article; the difference is in name, not substance; it is in both a duty laid—an assessment made on the value, weight, dimensions, or quantity of an article imported from abroad, or made at home. The term excise is with some an odious one, implying compulsion to pay it; while impost is said to be a voluntary tax; but it is surely as easy to abstain from the use of domestic spirits, and thus avoid the payment of an excise, as from the use of foreign spirits, and thus avoid an impost. Those who will use spirits must pay one or the other; and if the amount of the as-

essment on both is the same, it makes the same addition to the price, and, in either case, operates with as much compulsion. An impost on woolen or cotton goods to those who choose to wear them is an addition to the price—a tax; if they wear them, they must pay it; an excise is no more compulsory, and ought to be no more odious or unpopular. There is great magic in names and words. Finance and revenue are said to be sciences; darkness conceals their principles; political and mental research is necessary to understand them; there is this veil which conceals them from common and simple observation, which can only be raised by those initiated in their mysteries. Hence has arisen the delusion which presents commerce as the principal source of revenue. This illusion would be effectually dissipated, if a few plain practical considerations were bestowed upon it; but it continues, not because it is so difficult, but so easy to remove it. There are no truths, either in science or common life, so difficult to inculcate and enforce observance as plain and simple ones; when they are applied to the great operations of Government they are doubted, because it is a common belief that great machinery can only be put and kept in motion by great principles, above common comprehension; hence they are not examined. From the want of this examination has arisen the common accepted opinion that excise is an oppressive, impost a mild mode of taxation. Had it changed, and applied the word impost to domestic articles, excise and external taxation to foreign, the popularity of the two modes of taxation would have been transposed; for their operation on the people is the same. A moment's reflection will bring about the conviction, that a dollar impost, or a dollar excise, on a yard of cloth, which is in both cases added to the price, is of no further importance to the one who buys it than in paying it in the one case to the man who imports it, and in the other to the man who makes it. To the Government it is the same, as the same amount is received into the Treasury; whether derived from the one source or the other, it is alike revenue. This revenue is in neither case paid by commerce or manufactures; the tax is on the article, not on the carrier or the maker. Commerce is the means by which the foreign article manufactures the means by which the domestic article is furnished to the consumer or purchaser, who pays the tax; when he buys the goods, he pays the revenue. If the articles could not be sold, none would be imported by the merchant, or made by the manufacturer; the Government would receive no revenue.

Impost being a tax on consumption and not on commerce, consumption and not commerce furnishes the revenue: so of excise; it is consumption, not manufactures. Both the merchant and manufacturer make the tax an article of merchandise, by adding it to the cost, and apportioning the profit on their aggregate expenditure. The consumer will purchase from the one or the other, as he can best and easiest pay, or most profitably exchange. The present state of the country offers a decided preference. The merchant cannot pur-

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chase or receive in exchange the provisions or raw materials of the farmer; their importation is prohibited in the country whence he imports his goods. But the manufacturer wants provisions for his laborers, and materials for his establishment; he can purchase or exchange. When grain can be exchanged for spirits, it pays the tax to the Government and the price to the distiller; it is, therefore, an easier and cheaper mode of discharging the portion of the burdens of Government, which every man must pay, than by being compelled to turn his grain into money at any price which a bad market would afford. If, therefore, the operation of the proposed tariff would be to substitute excise for impost, as the principal source of revenue, it would be a most salutary effect to the mass of consumers, who would thus be enabled to pay in kind, and by exchange, what they must, by the other mode, pay in money. To accomplish this, there must be subjects for the operation of an excise; while foreign productions supply the consumption of the country, there will be no domestic ones on which to impose an excise; or, if an impost should create such a consumption as would divide the market, an excise on the domestic article would render the impost on the foreign no discrimination, and enable it to supersede the domestic in the market. The domestic market must be secured to the domestic production; then it can pay an excise, and render the revenues of the Government permanent and certain as the consumption of the country. A sudden change in systems of taxation creates revulsions injurious to established interests; it should be so gradual as to give time to the business of the country to direct its operations in conformity to the new measures. This is best done by such revision of the tariff as will make the most from items for revenue, and to enable those of manufacture to progress to such a state as to meet the demand. If the proposed tariff has not this tendency, it is not because the most assiduous exertions of the committee have not been directed to those objects.

The important inquiry now presents itself, will such a change be injurious to the revenue, or is it necessary for its preservation and increase?

The official documents before us present the alarming facts, that, besides the absorption of the balance of the sinking fund, the deficits of the last and present year amount to nearly \$10,000,000; that the revenue from the customs for the "last three years has rapidly decreased, and those of the last are less than any preceding one since the peace." As the consumption of the country is the source of the customs, it is thus rendered certain that it does not keep pace, but diminishes, with the increase of the population of the country; one principal reason must have occurred to the personal observation of every member of this House in his district—the means of purchasing imported articles have become, and are becoming, lessened. A hope is, indeed, left us, that we may anticipate more from the future than we have realized from the past and present; but we are left without any certainty of the means by which the future consumption of the foreign goods may be increased

beyond the present, or any assurance that it will not be less. In trusting to estimates and conjectures, and by basing our legislation on them as facts and certainties, we make ourselves responsible for their correctness, if they prove delusive; and yet we shall, by implicitly confiding in them, have persisted in a system injurious, and retarded the adoption of one beneficial to the national revenue, interest and credit. The responsibility may be unpleasant, for we shall have avoided the course to which facts, experience, and perhaps policy, pointed, and followed that to which we had been allured by expectation and hope. If the resources of the country, if the means of purchasing the materials which can be exchanged, have become diminished, it is not by any calamity of a general nature at home, or any unexpected events abroad. Many think it has resulted from trusting to external, and not to internal sources of revenue, from not securing our market to our own productions; if they are mistaken in the reasons, they are not in the fact. The revenue has been insufficient, and is yet so. Will it not then become prudent to adopt our measures on the belief that it will continue so under the operation of existing measures, and in the existing state of things? There is at least, safety in this course; no change is even conjectured till 1822, and then may not be very sudden, or to an amount greater than will be required to redeem the public credit. In 1825 \$18,000,000 of public debt becomes due, and it is not probable that the revenues of the intermediate period will more than meet the expenditure, the loans of the last and present years, and that instalment of the public debt. There is no danger that too much money will flow from the present system of revenue to the Treasury; but there is much danger that there will not be enough to meet the demands. A prudent, safe, and sound policy would then seem to dictate the propriety of providing for a contingency, which, if not certain, is highly probable; and not trust implicitly to one which is barely possible, and which must take effect, or the whole country present one general distress, heightened by the loss of national credit, the destruction of public confidence, and justly ascribable to our want of foresight, possibly to the pride of opinion.

It may happen to the best administered Governments that their settled course of policy may be defeated by unexpected, untoward events. Our fiscal embarrassments cannot be traced to such a source; if they could, then temporary expedients would become justifiable, till a settled order of things were restored. But, if the calculations which have led ours to adopt imposts as the almost exclusive source of revenue have been that a general war in Europe would secure such a price to our produce as to furnish the means of an indefinite consumption of foreign goods; if our reasons for now adopting no other system arise from the expectation that another great convulsion will happen, it will have presented a bold experiment, which nothing but success could justify. It is building the support of the Government not on the resources of the nation, but the fluctuating

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policy of foreign Powers, which will not be conformed to meet the demands of our treasury, or the interest of this people. The experiment was made on a forced and unnatural state of things; settled order has now returned; and we must increase the present, afford new means for the consumption of foreign goods, or base our revenue on the domestic. The latter is no new or untried measure; it has succeeded, by developing and retaining the resources of the country, enabling them to supply the deficiencies of the Treasury.

A reduction of the existing duties has been suggested as a mode of increasing the revenue. It is not perceived how this consequence would follow; though the price of the articles consumed would be lessened, the quantity consumed must increase in a ratio greater than the price decreased, or it could not produce a greater revenue. It could not add to the means of the consumer to purchase the greater quantity; it would open no new market for the exchange of the products of his labor or soil. And, if it is dangerous to now raise the duties to a rate preparatory for an excise, by creating too sudden a revulsion, it would be still more so if the point of depression should be made still lower, and it shall hereafter be found necessary to resort to the proposed bill. One thing must not be forgotten—admitting that the increase on the tariff will impair the revenue, it will only be in consequence of the substitution of the domestic for the foreign supply for consumption; if, from both sources, the aggregate amount of consumption remains the same, it only requires the substitution of an excise to produce to the Government the same revenue with the same exaction from the people. The only possible inconvenience must arise from the refusal of the Legislature to impose the excise, or the people to pay it. The objection, therefore, should not come from either of these sources, that the revenue will be destroyed. They must make impost efficient, or try new sources; if they will cling alone to this, let them make the most of it; not, when its incompetency is publicly and officially acknowledged, object to any alteration extending or reducing it; if it has failed in its present shape, to give it another; if the modification the committee recommend is wrong, to offer one which will be right. When the expenses of a Government exceed its income, there is a responsibility somewhere; expenses must be reduced, or income raised. If all the expenses are necessary, then it is as necessary to make provision to meet them, unless the inconvenience to the people in providing the means to meet such expenses is greater than the good which is derived from the objects to which the money is applied; in that case they become secondary, and must be dispensed with. If all our present expenditure is required for the common defence and general welfare of the nation, the common defence and general welfare become secondary objects, unless they justify the means of defraying it, and must be sacrificed by the refusal or neglect to do it.

If the expense is neither to be brought within the income, nor the income raised to the expense, it must be bad policy in one aspect or the other.

If the retention of the army, navy, and civil list is connected with the system of common defence, the means of their support is the essential part of the same system; the friends of the one cannot be the enemies to the other; if the means are not worth providing for, the establishments are not worth their cost. Important as are our army, navy, and the other machinery of the nation, there is yet one item more important, more to be cherished, as the great means of public defence, the vital principle which infuses life and imparts vigor to all others—public credit. Armies, navies, and civil lists, cannot create or preserve that; it is the effect of wise policy, prudent councils, and sound legislation. Credit can create the other instruments for defence; it is the moving, the inspiring cause, which gives efficient impulse to national movements; the extent of its creative preserving powers is bounded only by the emergencies of the nation, but it should be guarded with a watchful eye; our only resource in time of war, it should not be exhausted in time of peace; with it, all the great defences of the country are broken down. If in peace it be prudent to provide for war; if this be the maxim which convinces us of the policy of retaining an army and building a navy to defend the country, the same policy will dictate the ruinous consequences of destroying the only efficient source of their support. If our calculations are founded on the belief that war is a calamity too distant to be guarded against, then there can exist no stronger reasons for providing force than for retaining credit. Credit is a fund on which this nation may largely draw, but it is a fund not yet untouched; if it accepts the bill now drawn upon it for \$7,000,000, it will have advanced nearly 100,000,000. The war drafts will soon arrive at maturity, and no provision is made for their redemption. Credit rests on confidence; it will have but slender support if we commence another war with this heavy load. The means of payment will soon be called for; the public lands are probably pledged already for their full value; and the customs are inadequate to the ordinary expenses. No permanent fund for the payment of the interest; no source to which we can look for the redemption of the principal of the public debt—these will be sufficient clogs on loans which may be required in times of danger and trouble; they ought not to be increased by additional ones in ordinary and peaceful times. It is far from the wish of the committee to draw a cloud over the bright scenes of the late war; but it cannot derogate from the glory they imparted to the country to remind the House of the instructive lessons it afforded. We commenced it with a national debt of \$45,000,000; the country less embarrassed than at present. With what difficulty, at what sacrifices, loans were obtained, it is unnecessary to examine; to sustain public credit unimpaired ceased to be an exertion; any efforts made were to prevent its extinction. The known fruitlessness of the attempt forbade the Government to even ask the nominal value for the evidences of public debt; the first great inquiry was, if they could be sold at all; the last at what depreciation. Happier results cannot be expected, if

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with diminished resources and more than doubled debt, we commence another war without a permanent source of revenue. Public credit does not fall in the mere ratio of the increase of the public debt; its decline will become more rapid as the means of sustaining it are neglected or denied; lenders will look to the security for the punctual payment of the interest, and the eventual payment of the principal; the value of that security will depend not on general, indefinite, though positive assurances, but the permanent efficient measures which will insure the redemption of our plighted faith. As the amount of the debt is in a greater or less proportion to our efficient resources; as our foreign relations may present a more or less pacific aspect; as our domestic policy may more or less tend to impair our institutions, to strengthen or weaken the common bond which alone makes us great; as the history of our past legislation shall give confidence to the existing, or justify the demand for new pledges for the future, so will the solidity of this great national defence be secured or impaired. Entertaining these views, deeply impressed with their intimate connexion with the general welfare, it will not be expected that the committee will further pursue the inquiry whether it is wise or safe to supply the deficit by loans; that they can hesitate in believing that it should be a resort only after the failure of all other means; and that the time when old sources of revenue fail is the proper period for laying the foundations of new. It can only be found in some species of taxation; that it is not in the present tariff is admitted; that it could not be in a reduced one, is certain; it must be in an increased one, excise, or direct taxes. If an increased tariff will afford the remedy, it removes the revenue objection, and presents conclusive arguments for its adoption; if it fails of this effect, and excise shall become indispensable, the measure is still necessary to so far reduce foreign imports as to give the market to the home products, to enable them to become commensurate with the demands of the country, to supply its consumption, and be thus reared up as the effective subjects of excise, by a gradual and not a sudden and radical operation. Viewed thus, it may be defended and justified as a mere measure of revenue, and ought to lose none of its importance or value because it combines the protection of national resources and industry; tending to retain within this country its currency and profits; giving to this, and not to another nation, the benefits of the circulation of the one and the expenditure of the other.

*Ruin commerce.*

When a measure is recommended for adoption, which contains not only general provisions, but a variety of details, which are alleged to bear with peculiar and intentional oppression upon a highly respectable and useful portion of the nation; when their memorials on our table attribute the tendency and the design of that measure to be the destruction of a great national interest which affords them the means of employment and support, it should be deemed incumbent on those who make to sup-

port these charges. When it had ceased to be the act or project of individuals, by its adoption by the representatives of the people, it ought then at least to be thought to have emanated from a conviction of public duty; if the result of errors, that they were those of judgment; motives and intentions might have been spared. However little it may have been deserved by others, charity should have extended to the representatives of five of the greatest commercial cities in the Union, some of whom assisted in devising, and all of whom concurred in the passage of the measure, the want of a design to destroy the interest confided to them. If the motives ascribed are discernible in any feature of the bill with such clearness as authorizes the imputation, it is the least favor that can be granted to those who disclaim and do not feel conscious of having indulged a feeling of hostility to any interest, and at least profess the desire to promote the general good, that such particular features should be designated; it may serve as a friendly admonition by which to avoid future errors; a willingness to retract them might follow from the conviction of their existence, and reputation be restored by repentance.

The committee thus publicly declare, that if the proposed tariff had, in their opinion, partaken of the character imputed to it, it would not have received their sanction; this House certainly would withhold theirs. Those on whom these direful evils have been impending possess both intelligence and industry to trace their sources in the particular parts of the bill; it ought to have been expected from their candor that, when they knew of their existence and inevitable consequences, which are so deeply deplored and so feelingly portrayed, they would not have confined themselves to general remarks. It was not enough to complain that agriculture, commerce, and revenue would be destroyed; how it would have been done should have been explained. High duties have been tried on various articles; their practical operation cannot be unknown; the benefits of experience should have been imparted to us. General objections can be made by any one not versed in the operations of commerce or finance; but to ascertain whether they are founded in fact, and apply to a definite proposition, can best be decided by the observation and practical knowledge of men whose pursuits lead and peculiarly qualify them to judge of the effects of legislation on their occupations and interests. On this subject, more than perhaps any other, the fairest opportunity of judging has been presented. This bill is not bot-tomed on any new policy; the encouragement of manufactures is no uncommon subject of discussion. We have a right, nay, may be bound, to presume that the tariff which would authorize such strong objections, and must produce such fearful consequences, has been well and thoroughly examined; that when it has assumed such importance as to call the notice of conventions from States, of committees, and delegates, selected for their intelligence, to represent the great interests about to be prostrated, and by their exertions "diffuse such information as may tend to make its

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consequences rightly and generally understood," to urge to an enlightened Legislature reasons which should withdraw their sanctions from a measure which one branch had adopted, they would be drawn from the bill, apply to its provisions, and be the most forcible which could be selected; it is a fair inference that those which have not been deemed important have been omitted, and that the objectionable character is to be tested by those which have been pressed.

Those which relate to commerce are the following general ones: "Its avowed object is to direct and control the occupations of men, by granting special privileges to those engaged in particular pursuits." The committee are not aware by whom such avowal was made; they have searched the bill in vain for the evidence of it, and cannot see it in its provision, still less do they recognise the existence of the object in their own minds.

"This tariff would impose on certain foreign manufactures duties professedly and effectually prohibitory; and the question involved in its adoption is not whether the consumer of those goods shall pay a higher price for them, but whether he shall be prevented from purchasing them at all." Conjecture must be allowed a wide range before it could alight upon the tariff intended for this remark. It is not the one which the committee had the honor of presenting to the House; that contained no prohibition. The highest ad valorem duty was forty per cent., and few, if any, specific ones were higher; that tariff prohibited no one from purchasing if he would pay the price. If the certain manufactures prohibited, and the goods which were forbidden to be purchased, had been particularly designated, it would have furnished a clue for our researches; without that aid, our labors would be useless. "A system of restriction so unequal, so repugnant to all sound theory." In its application to commerce, this term is believed to have received no definite construction by its common acceptance among merchants; in extracting it from our laws, it may be found rather more applicable to tonnage duties, professedly, effectually, and practically prohibitory; to the occlusion of our ports to shipping or produce of a certain national or local description; to non-importation, non-intercourse, than to impost for revenue or the protection of national interests. Until either commercial or legal usage shall have embraced those objects in the definition, we cannot think that they necessarily constitute a restrictive system. The committee forbear from noticing another objection to this bill in its bearing on commerce, [drawbacks;] like the others noticed, its want of application is a sufficient answer.

"We cannot afford to export our productions to other countries, unless we will take what they give us in return."

It is with much pleasure that the committee have an opportunity of examining one objection which may have some connexion with the general principles of the bill. It is among its first objects to check the importation of foreign goods to an extent that will give some protection to our products. If the natural effect of this will

be to injure our foreign market more than to benefit the domestic, it becomes a duty to so modify and vary it as to impose less duties on such foreign products as insure a demand for ours; but when this object can be accomplished without disturbing other parts of the system of the bill which are essential for our national purposes, it becomes no less a duty to retain those than to expunge the others. No particular provision, no item, has been designated, except food and materials for manufactures. The application of this objection thus specified to the proposed bill will, we think, furnish a satisfactory answer. Our importation of manufactures is from Europe and the East Indies. To the latter, it is believed, we export no provisions. Their importation is absolutely prohibited by England, France, and Spain; and it is not known that any considerable quantity is required by other European nations. The European and India markets, then, cannot be rendered worse for our food, unless there can be some measure more rigid than exclusion. Our only market is in the colonies and islands of those Powers, from which we import but few, if any, articles of manufacture; the duties on their produce are necessary for revenue. And it is here proper to remark, that, though there is a great falling off in the ad valorem duties, the amount of revenue from specific duties has diminished in a very trifling extent. The duties on colonial produce from the East and West Indies are among the highest in our present tariff; that they will bear it, is evidenced from the amount of their consumption, and the almost uniform revenue produced; that they will bear the proposed addition cannot well be doubted; and, if necessary for revenue, we cannot suppose that any class of the community, especially the mercantile, would object. High duties on produce which we must consume are paid by ourselves, and not by those from whom we purchase; it cannot, therefore, induce them to refuse to receive our produce in exchange. At all events, the objection, if allowed its whole force, can only apply to the increased duties on West India produce, not to those on the manufactures of Europe or India. If the state of the Treasury would justify it, the committee might yield to the modification without impairing the general system of the bill. It would afford much gratification if those who press the objection would at the same time express their willingness to withdraw it from those parts of the new tariff to which the reason is wholly inapplicable. The committee would, in such event, be happy to meet this spirit of concession and mutual conciliation, and carry it to any general and detailed provision of the bill, (although they might well doubt whether an objection was founded in fact or in reason, and that it might be contradicted by both,) to which any specific objection has been made, and is applicable by fair mercantile or legal construction, provided the remaining parts might be adopted by general concurrence. This would smooth a course of legislation, and save the country the agitation which has been caused by almost classing the nation into parties on this subject, by general questions of comparative interests, by exciting fears

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and magnifying dangers which cannot grow out of any measure proposed for adoption, if examined, discussed, and modified in a spirit of generous and national feeling.

When one portion of the nation asks a great deal from its representatives, and are convinced that it is all reasonable and required for the general welfare; when one house of Congress, in their sound, and, we must be allowed to say, sober discretion, and not from the "ardor of the moment," have felt it a public duty to grant them a part, it certainly affords some presumption in favor of its policy. If another portion of the community objects to the whole, to any interference at all, they should give the best of reasons, which will extend to all; when none exist or are offered affecting parts, that those parts should be retained they cannot complain who are allowed the benefit of all their suggestions, founded on intelligible and tangible grounds. Where the public opinion is at all divided, each should, in deference and respect to even the erroneous opinions of others, yield a part; each acts from the purest impressions; each feels itself right; but both are wrong: if one decides on the principles and motives of the other, and each is believed. It will be the work of time to bring about the happy event when all will think, that, though one party may ask too much, it is entitled to something; when the other party objects to all, they may be unreasonable in some things. But the memorials before us afford at least one pleasing indication of the hope that this time may arrive. One of them,\* in a spirit of candor and liberality highly worthy of praise and imitation in these times of general agitation, admits that the encouragement of the "manufacture of such articles as are the production of our own soil, for the purpose of turning our industry to the best account, and of procuring the means of defence," avowing themselves the "friends of internal manufactures as a means of fostering national industry, and, therefore, avowing that they ought to be fostered as far as they can be without injury to other branches of industry, would most gladly suggest any thing which might conduce to that end, without being highly injurious to the revenue, destructive to the interests of commerce, and oppressive on the great body of the people." The committee would deem it unworthy of themselves to withhold their entire assent to these principles—to ask their measures to be tested by any other. If they could be presumptuous enough to ask this House to violate them, the effort would recoil on themselves. May we not, then, justly expect and hope that the attempts of others may be equally unavailing? We ask not that they should react, only that they may not be operative or effectual. Applying, then, this criterion to this bill, it has been seen that it can have no unfavorable effect on the exportation of provisions. Raw materials are the remaining item of objections. The principal articles of manufacture on which the additional duties were imposed are, iron, glass, hemp and cordage, paper, linen, silks, woollens, cottons.

The raw materials of iron and glass will not bear the expense of transportation; commerce can give them no value abroad. We have an infinite abundance; it can only be made valuable by manufacturing at home; of hemp and flax we have none to export, and are obliged to import to meet the limited demand of our present manufactures; both are subject, when dressed, to an almost prohibitory duty in England; flax £9 0s. 8d., say \$40 per cwt.; hemp £4, say \$18 per cwt.; in the stem, undressed, both are too bulky for exportation. Cordage we import; it is subject in England to a duty of \$4 per cwt. Of rags, the raw material of paper, we import large quantities, and, it is believed export none, as the country does not afford our papermakers a sufficient supply. Rags, in the present and proposed tariffs, are duty free. So far, then, as applies to the material, commerce gains by the manufacture of this article. The same remark applies to raw silk; we have none for exportation; there is a duty on the importation of 15 per cent. ad valorem in the present tariff; the new one makes it duty free.

Wool is subject to a duty of six-pence sterling per pound in England, say twelve cents; it excludes all coarse kinds. Wool is probably less an article of export now than of import; there is no supply beyond the demand; immense numbers of sheep have been killed, because there was no market for their fleeces. The new tariff would not, therefore, deprive commerce of this material for export.

*Cotton.*—Commerce has no other interest in this article than as a carrier; but, whether in this capacity, or as the guardian of agriculture, she protests against the increase of duty on goods, she surely cannot extend to the coarse fabrics of India.—Commerce, as a great national interest, is of infinite importance as the means of encouraging the first of manufactures—ship building, affording a nursery by the employment of seamen, providing for the naval defence of the nation, and for efficient attack. These furnish strong motives for its encouragement; for protection from foreign as well as domestic assailments. Commerce is not that selfish, sordid interest, which looks only to the profit of the individuals concerned in its pursuits, alive only to the means by which they can draw from the consumer the greatest difference between the price which an article costs and that which can be received for it. It raises its views to general and national objects, and watches its peculiar interests only as component items in the great work of public prosperity. In the application of these observations to the coarse cottons of India, it will be at once evident that the objections in the various memorials were not, and could not have been, intended to embrace this item. (It is, indeed, referred to in one, but must have been with an exclusive aspect to revenue.) India cottons are not made from American wool, or paid for by American produce. No ships are built, no seamen employed to carry our productions to the British East Indies. Our exports in 1819 were \$24,914; in 1820, \$5,700. The exclusion of their cottons cannot, then, affect agriculture which raises, or

\* From Richmond.



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commerce that carries, either the materials or other produce which pays for the manufacture; and thus one important item in the new tariff remains clear of these objections. As to the increased duties on European cottons of eight per cent., it should be considered that, since the present tariff was adopted, France by her new tariff has imposed a duty equal to about twenty per cent. ad valorem on cotton wool, and England about eight or ten. The reasons ought, therefore, to be of the strongest kind, which would show the injurious effect of a corresponding duty on their manufactures. It must be extremely difficult to prove that an addition of thirty-three per cent. on the present duty could produce worse effects on commerce than the addition of one hundred has already produced. Though till 1812 the permanent duties on cotton goods were twelve and a half per cent. ad valorem, and since that time they have been twenty-five, this duplication has not been injurious to commerce. It is a fact, almost too familiar to be stated, that we have not since exported less cotton than before; American shipping has not carried a less proportion; England has not purchased less. If the additional duty on cotton goods so far promotes the growth of our manufactures as materially to diminish the foreign, it would in the same proportion increase the domestic demand; the only difference it could make to commerce would be in the transportation of cotton from the place of growth to the nearer or more distant place of manufacture; a difference too trifling to at all endanger, or materially injure, the commercial interest.

There is one definite and specific objection which deserves serious consideration. It is said the enormous tax proposed on hemp and iron would strike a severe blow at our freedom and independence; "that the imposition of new and heavy burdens on our shipping would tend to give the British the monopoly of our trade, and to make them our sole carriers." If this duty is of that character, and will produce such effect, it ought to be abandoned. The following calculation will show the operation of this tax.

The additional duty on iron is ten dollars a ton; if four tons are required for every one hundred tons of shipping, the difference would be forty cents on a ton.

The additional duty on hemp is twenty dollars a ton; if four and a half tons of cordage are required for every one hundred tons of shipping, the difference would be — on a ton.

We are not left to conjecture to know what has been and will be the practical effect on ship-building by the increase of duties on these articles. In 1810 and 1811, the duty on iron was seventeen and a half per cent. ad valorem; on hemp, one dollar per cwt. New vessels built in 1810, 127,575 tons; in 1811, 146,691. In 1812, the duty on iron was raised to thirty-two and a half per cent. ad valorem, and hemp to two dollars per cwt. The period of the war can furnish no criterion. In 1815, new vessels built, 154,624 tons; in 1816, 131,667. In the last part of the last year iron was nine dollars the ton, and hemp thirty. In 1817, new vessels built, — tons; in 1818, 82,421; in July of that

year, iron was raised to fifteen dollars a ton; in 1819, new vessels, 79,819 tons.

The original duties on iron were five per cent. ad valorem; on hemp, sixty cents per cwt.; in the increase from those rates to thirty-two and a half on one, and two dollars on the other, it will not be asserted that there was a corresponding decrease in ship building; and the above data conclusively show that the proposed rate would not have that effect. So slight an addition to the expense would not destroy the competition between ours and foreign shipping—it does not hang by so slender a thread. In noticing this objection, it will be perceived that the full weight of it has been allowed for; but the committee must not be understood as admitting for any other than the purpose of illustration that the increase of duty would be a permanent increase of price. The negative of that proposition is proved by the history of all the items in our tariff, when the domestic has superseded the foreign supply, and fair scope afforded for domestic competition.

The House will excuse the committee in remarking that it is a source of great felicitation to them to find that, after the most thorough examination and critical review which has been had on this bill, and perhaps not with the most preconceived disposition to approve, the most objectionable items, those which have alone been thought deserving of specification, should so little justify the severe animadversions which have been so liberally bestowed. It is a most pleasing proof that where there is a disposition there is also the power of shaping the legislation of the country that the interest of one class can be essentially promoted without injury to another.

If, in the various memorials on this subject, there should be found any thing like general allegations of the ruin of commerce, the impoverishment of merchants, the destruction of navigation, and foreign monopoly, it must not be expected that much time will be thrown away in meeting suggestions which can as easily be made, and urged with feeling and eloquence on public measures which are beneficial to commerce, as those which are injurious. Our own history teaches us that the merits of a system cannot be fairly tested by the plaudits or remonstrances of the interest on which it appropriately bears, though it might be fairly inferred that none could better judge of the tendency of a measure than those whom it most affects; who, having often asked, and uniformly obtained, legislative aid, could duly appreciate its policy; yet, when we refer to the discriminating duties on tonnage, we are compelled to doubt the correctness of the inference. This system was adopted in 1790, to aid the commerce of this country; the consequences are well known. In 1802, during the temporary peace in Europe, the British Government was desirous that all countervailing duties on British American tonnage should be mutually abolished. When it was ascertained that this Government was disposed to accede to the measure, the table of this House was loaded with remonstrances against it. A reference to the records will show whether the same fearful and dreadful

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evils were not then predicted and deprecated; whether the commerce of the country was not then alleged to be in the most imminent danger; and the progress of the measure effectually defeated by the strong and simultaneous movements of the whole mercantile community. The new tariff did not excite more alarm and fear; a comparison of the memorials will decide. In the next peace which followed, (1815) our Government acceded to the principle; its effects on our commerce have been most salutary. Now, this Congress, receiving its impulse from public policy has been urged by mercantile memorials, praying for measures to coerce France in relation to the trade with her and England to her colonies, to adopt the system so much dreaded in 1802, so beneficial in 1815, so much pressed in 1818 and 1819, and so unattainable in 1820. It may not be thought disrespectful to observe that, if the measures of last session could be recalled, there would be some doubt of their adoption at this; that those who asked for them are now convinced that the interest most to be served has been but little, if any, advanced; and that, if national feeling did not forbid the retrogression, national interest would sanction it.

With such an example before us, may it not, without being illiberal, be prudent to doubt whether memorials are the safest guides to sound policy; whether those who should be best enabled to judge may not sometimes be too much drawn from reasoning and calculation, from experience to the indulgence of feeling and groundless alarm; whether the vacillation which we discern in the retrospect may not be renewed in the prospective; and whether, like the repeal of the discriminating system of tonnage, it may not be the fate of the new tariff, after being decried as baleful in principle, and destructive in its practice, to be yet hailed as auspicious? To properly estimate its bearings on commerce, the causes of the rise and decline of that interest must be traced; that it has not been from the export of our own productions, or the importations of manufactures, the official history of its progress conclusively shows that it has not ebbed and flowed with the price or quantity of domestic exports or foreign imports. But the exportation of foreign produce, the carrying trade, the war in Europe, left us without competition; peace has overwhelmed us with it. While the war continued all nations profited by our commerce; since the other has returned they can profit by their own. Two items of colonial produce required in their transportation more tonnage and seamen than all the imported manufactures consumed in the United States. Of sugar there was exported, in 1806, 145,630,000 pounds; in 1807, 143,119,000; of coffee, in 1806, 47,000,000; in 1807, 24,122,000 pounds; in 1819, of sugar, 11,267,000 pounds; of coffee, 8,570,000; in 1820, sugar, 31,388,000; coffee, 11,656,000. In 1806, of our two great domestic staples the following quantities were exported: cotton, 35,657,000 pounds; flour, 156,544,000; in 1819, cotton, 87,996,000; flour, 150,000,000; in 1806, aggregate of sugar and coffee, 192,630,000; cotton and flour, 192,

201,000; in 1819, sugar and coffee, 19,842,000; cotton and flour, 237,996,000; aggregate of both in 1806, 384,831,000; in 1819, 257,838,000—a falling off in the foreign exports of 126,993,000; an increase of domestic of 55,366,000. The state of commerce in the two years will show the kind of employment which is necessary for its support. It is not for the committee to pursue this subject into detail; but it would have been very instructive if some calculations had been made to show how far the commerce of the country depended on the mere importation of foreign manufactures, how many tons of shipping are employed, and how many seamen, in bringing the whole supply of cottons, woollens, silks, iron, hardware, crates, glass, paper, hemp, and other articles of consumption, which are made from raw materials which are or may be produced from our soil; whether the transportation from one part of the country to another of materials to supply our manufactories, and of manufactures back to the raiser of the materials, and the export of manufactures, might not employ as much shipping and as many seamen as the importation alone of foreign supply. Except of cotton, foreign manufactures afford freight but in the return voyage; requiring none of our materials, or compelled to use those of their own country, they afford no outward freight. During peace in Europe the fate of our foreign commerce is fixed. We have in vain, and shall in vain, continue to endeavor to force for our shipping the colonial trade. Foreign nations must, and will, protect their own, with a resolution proportioned to their estimate of its national importance. It is with as much reluctance that they will abandon the interest of their navigation as we of ours. In the contest it is believed that we have suffered much, and may suffer more; and the most sanguine dare not even predict success. Commerce must, like other interests, yield to foreign competition, backed by an unyielding policy of legislation, which, having built on its commerce an immense system of revenue, is bound in self-defence to reciprocate the support it receives. If foreign nations would permit the consumption of our provisions and materials, and the carrying of them in our own shipping, it might afford some indication of the restoration of our commerce. The new corn law of Spain, the exclusion of our soap, the French bounty on South American cotton, tell us emphatically that this is not the era of that extent of liberal principles which, because it may be morally right, will restore us a monopoly that we once enjoyed, not from their good will, but necessities. Now they will submit to privations and positive losses, by forcing the importation of an article on which we now mainly depend; and this not to counteract a restrictive system on our part, but to continue one on theirs. If the pursuits of the committee in private life have not enabled them to draw, in relation to commerce, just deductions from either reasoning or facts, they feel confident that they cannot err in passing their opinion on the conduct of this Government, called for by the petitions, and sanctioned by the approbation, of the mercantile community, and adopted,

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not in the darkness of former years, but in the light of the last.

Our present commercial and legislative contest with France and England is to secure to our commerce the export, not the import trade of our country. Those nations do not deny to our shipping the exportation of their manufactures, or produce, on equal terms with their own. That, as a source of commerce, is unrestrained; their duties are not on exports, or on vessels arriving in ballast. It would be a strange policy to discourage or embarrass the exportation of surplus productions, and a truly unaccountable contest, if it was merely or mainly whose navigation should take them to market. A market must be the first great object; the mode of reaching it secondary. Our object is not the exclusion of French manufactures; we impose no additional duty on them by the late law; its operation is to prohibit their introduction in French ships. We submit to the loss of carrying them in our own. Being willing to abandon this branch of commerce, it is deemed conclusive evidence of the general conviction that its importance is secondary. The worst effect of the new tariff could produce no more fearful results; for it must be equal, with American commerce, whether no manufactures are imported, or none in American ships. Merchants willingly embrace the latter alternative to effectuate the greater object, the one which is the foundation, the sustenance of commerce—exportation, not importation. In thus estimating their relative importance, it is a great relief to be furnished with a practical acknowledged standard; no longer left to search for one by conjecture or mere reasoning. This enables us to speak with certainty that this bill, in its worst aspect, bears only on the unimportant operations of commerce. Whether it will injure it at all or not remains to be examined. It must be remembered that there is an internal as well as external commerce: one we now and can forever monopolize; the other is subject to continual competition: one is as permanent as our Government; the other as much swelled to an unnatural size by war as it is emaciated in peace, forever fluctuating with foreign policy, which we cannot control: one limited in its extent by foreign wants, looking only to countries which, having perhaps arrived at their maximum of population and resources, can furnish no new market or increased demand;\* the other drawn to a mighty empire, with a population of various habits and pursuits, embracing all the varieties of the temperate climates, fitted to the supply of all our wants; fertile in resources as yet not tried or developed; in itself a continent,

destined to open new, and capable of furnishing boundless employment to industry and enterprise. As the best portion of foreign commerce has passed into other hands; as it is now irreclaimable, and can never be certain and uniform, it would be a reasonable hope that there would be a common effort to increase and enlarge the sphere of domestic. It has been as yet untried. It is not prudent to so far decide on the consequences of the attempt as to pronounce it not deserving the experiment. If the same zeal was displayed in discovering new as in retention of old subjects of commerce, and the effort failed, experience would guide us to the wisest measures. While there is a refusal to appeal to this unerring standard, and we are determined to trust only to preconceived opinions, (the result of habit, and possibly prejudice,) we can never avail ourselves of the example of others, and will afford none for ourselves. In other countries, of limited extent, internal commerce has not been deemed unimportant; it has not been found unproductive of employment, of wealth, or injurious to national interests. Ours is a union of confederated nations; if the intercourse between them is commerce, it may, from its great distance, the variety of its products, and articles of exchange, be called foreign commerce. The extent of water communication between the remoter parts is equal to the space which separates us from Europe and the West Indies. As a material for commerce, there can be discerned no difference between the sugar of Louisiana and of Cuba; the lead of Missouri or of England. Nature has not denied to the immense region watered by the Mississippi, the Ohio, and the Lakes, the means of ship building, or the supply of cargoes. Man refuses them a market, because he looks only abroad. If one portion of our country can furnish articles for the supply of another; if the vehicles of transportation, the employment of men, and the distance, are the same, foreign can present no preference over domestic commerce, as a national interest. It cannot be that habit, or the laws of nature, have infused into commerce such a spirit that it can only exist by foreign action; its solid interest is not in the ephemeral magnitude of its operations, but their certainty and uniformity. It has suffered more from fluctuation than want of employment. While it acts abroad its movements are among rivals and enemies, not protected by the paternal guardianship, but checked and thwarted by the jealousy and hostility of the Government under whose influence it must, and against whose policy it may operate. In seeking domestic sources its course is among friends, divided only by mutual interests; between nations united by the common bond of feeling and power, and under the protection of a Government which, supported by the affections, aims, in return, to provide for the good of all. If considerations growing out of these reflections do not carry conviction, may they not awaken attention and lead to inquiry, so far as to justify one fair experiment? If it should appear that a partial trial has been made, and with success; if there are any of our towns whose trade and tonnage have remained unimpaired by

\* The amount of our exports of domestic productions in 1790, before the European wars, affords some specific and satisfactory rule by which to test the foreign demand in peace. The prospects for commerce, agriculture, and revenue, can, by this comparison, be safely estimated. Those who are willing to trust all to hope should, at least, be called on to show that there are now any markets for our produce which were not open to us in 1790, and that the demand has or will increase.

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the general pressure, where the growth of domestic has exceeded the decline of foreign commerce, it cannot be uninstrusive to search for the causes, or unwise to profit by the example.

As the importation of foreign manufactures might become lessened, it cannot be doubted that the increased internal communication would balance the loss to commerce; it would be more in raw materials, which are not now exported, and, being more bulky than the manufacture, would require more tonnage in their transportation. When the value and weight of the manufactures we import from Europe and the East Indies are compared with our articles of export, it will be apparent that a small amount of tonnage is required for the carrying of goods in a finished state; and that there must be more domestic commerce in collecting the materials and distributing, than there is now of foreign in merely importing the manufacture.

It is not believed to be a rule growing out of the course of trade, or inferrible from experience, that the foreign demand for any of our products depends on what we receive in return. Such a rule would necessarily limit commerce to exchange, and none would be carried on where there was only the payment of money by one party, the purchase of goods by the other; there could be no balances of trade. There is no friendship in trade; demand is limited by wants and the means of payment; exchange is the most desired; but when that fails money and credit will be given. The official statements of our commerce with the East Indies and other countries abundantly prove that we do not refuse to purchase manufactures from those who will not purchase our articles. Though our means of importing from England are diminished in consequence of her corn laws, duties, and prohibitions, there does not seem to be the less inclination to purchase her manufactures. Though we are her best customers, no part of her system is relaxed in our favor. She takes from us only what is for her interest, and necessary for her wants. France does not exclude our cotton, or we her manufactures. Intercourse among nations must be regulated by interest, not feeling; those we deal with take from us what they want, while we supply them on the best terms; their laws do not bend because we receive payment in their products. We do not deal only with those who buy from us, nor is that a rule by which we apportion duties on imports. The duties on Madeira wine, and silks from China, strikingly illustrate this principle. The official tables, the history of our commerce, and all its experience, concur in the proof that the refusal by one nation to receive what it does not want will not prevent another from furnishing what it does, while it possesses means. It must, therefore, be made apparent, that our refusal to import will deprive the two nations, with whom we principally deal, of the means of purchasing from us; that it must not only turn the balance of trade with England in our favor, but to such an extent that she could not pay it, before the objection can have any weight. If this would be the effect of the new tariff, it

might not be a very effectual mode of defeating it by urging such objections on this Legislature. The usage of all trade proves that what is wanted will be bought while it can be procured by exchange, money, or credit; the seller will not receive what he cannot use or sell; the buyer, in such case, and not the seller, must submit to terms. He cannot force his produce into market against the laws of the place or the interest of the seller.

It has been thought the fairest mode to meet these objections to the full extent to which they have been urged, and not limit our views to their application to the bill the committee have felt it their duty to report. Its provisions do not tend to destroy the importation of all manufactures; it only progresses towards a system which, if judicious and healthful to the country, can be built upon, and made the foundation of others; it is not that rapid stride which can shake any interest to its destruction; if it is wrong, it will cause no sudden convulsion in retracing its errors. It falls as far short of the expectation of one part of the country, as it exceeds the wishes of another; it is the duty of both to yield a part, and becomes ours to listen to both. The committee are aware that the subject submitted to them has excited much sensibility; that their views have been, and will be, misunderstood, is to be expected; when their acts excite, professions will not allay opposition and alarm; it would have better suited their feelings had it been referred to them in terms of less censure and reproach, but it cannot affect their consciousness of having faithfully discharged a public duty; can never prevent them from imparting to one great national interest such degree of protection as comports with the general welfare; and will never lead them to devise injury to another which is intimately connected with the wealth and glory of our common country. We will not stop here, and content ourselves with the mere disclaiming hostility to commerce. If we understand what it is, if we are not radically mistaken in ascribing its former prosperity to exportation, and its present depression to the want of it, there cannot be an interest which more imperiously calls for legislation and national support. Such an interest is not local, or confined to those engaged in its pursuits; it pervades the whole country, and reaches every occupation; it carries our produce and manufactures to every accessible market; it creates and secures employment for all our industry, and, in the import and export of foreign articles, earns the freight of our shipping, the wages of our seamen, and acquires a profit to the employer, which is drawn from others to us. If this is foreign commerce, it is no less a favorite with us than manufactures; if they can be separated, we will not say it may not be more so—the extent of the market it would furnish might be the criterion. If our existing laws impose any restrictions on it, none would more willingly aid in their removal; it should be as free as air, and not be burdened even for revenue. If it has passed, or is passing, into the hands of foreigners, we would be happy to have within our cognizance the means of averting the evil; equally so in de-

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vising the best mode of enlarging and extending the sphere of its operations, under the control of our own citizens.

*Destroy agriculture.*

There can be no measure of sound policy which impairs the interests or checks the pursuits of agriculture; the committee, therefore, do not inquire into the expediency or justice of sacrificing agriculture to manufactures; they will confine themselves to the question, whether this bill, or the system for which it lays the foundation, tends to aid the latter at the expense of the former. Agreeing in this principle with its opponents, the solution of the question depends more on fact than reasoning.

It contains no direct tax, duty, or assessment on the products or occupations of agriculture; it touches nothing of domestic origin; to this there must be general assent. If it imposes a duty on articles other than manufactures, it is solely for revenue, which all admit is wanted, and which the opponents of the bill say is raised by impost from the farmer with less inconvenience than any other mode. If the additional revenue thus raised, to supply a deficit occasioned by its decrease on articles of manufacture, does not increase the aggregate amount of revenue, then are no new burdens imposed on the community; it is only a new apportionment, which becomes more or less grievous as articles of manufactures are more or less, in comparison with others, necessities of life. He who consumes imported articles pays a tax; there is none on domestic: if, by its substitution for foreign, there is a loss of revenue, which is added to the duty on some other, it is a gain or a loss, as he consumes the one or the other article. The poor farmer, who has substituted rye for coffee, would be a gainer by an increased tax on that, and a reduced one on iron and clothing; to the one who preferred coffee, the amount of tax would be the same. Admitting that, by the mass of the nation, the consumption of coffee would be the same with a higher as the lower duty, and the reduced price on iron and clothing enable them, with the same means, to pay the advanced price on this, then, in a national point of view, the only question would be, whether it bears hardest on those best or least able to bear it. This would depend on a comparison of the articles affected—which were necessities and which luxuries. In classing them generally, they are dye-woods, dye-stuffs, drugs, clothing, furniture, utensils and instruments of occupation, on the one hand; groceries on the other. In applying this discrimination to the two classes, and the items of each, it will not be found that the rates of duty are peculiarly onerous to the poor or the cultivator of the soil. Where it may be thought to exist, allowance must be made for the small bulk or weight when compared with the value of the article as a temptation to smuggling. It is conceived, therefore, that the relative rates of duties afford no color for the imputation of hostility to agriculture.

But the great objection to the bill—the one which is pressed in all the memorials as the foun-

dation of all the opposition—is, that the increase of the duty is, of course, an increase of the price to the consumer. This is admitted to be true as to those articles the sole supply of which is by importation, but no further. Even here the increased price accrues to the public Treasury; it cannot go to the manufacturer till he brings his products to market and sale. Before he can profit by the rise, he must check the foreign competition by acquiring a part of the supply or custom. He cannot do this by exacting a higher price, unless the quality of his goods is proportionately better; he must sell as cheap, and furnish articles of as good a quality, or he cannot begin his operations; they can be continued by no other means. If he puts down foreign competition, and monopolizes the market, it must be by making better or selling cheaper, and by such an amount as will equal the freight and importer's profit; for importations will continue while the article will yield either. If the market should be divided between the foreign and domestic supply, it would keep both at the same price, and, while this continued, operate as a tax to the consumer; it would be temporary or not, as the country would afford the means of furnishing a sufficient amount for the demand; if it would, and the price afford a profit to the maker, the competition must cease, by reducing it so as to exclude the foreign; if the country could not produce enough, the policy of imposing more than a revenue duty might well be questioned. But true "economy to the consumer" would be a permanent reduction by a mere temporary increase of the price. There can, then, be but one class of manufactures a high duty on which can tend to the benefit of the manufacturer at the expense of the consumer—those of which a competent supply cannot be furnished from our own resources. If such are discernible in the proposed measure, it ought not to be an object to retain them for the mere emolument of the manufacturer. The great articles of consumption are such as can be supplied from our own soil, and by the employment of our own labor and machinery. It is a fact, which cannot be too often repeated, which has been verified by every experiment, confirmed on every trial, that, when the domestic market has been secured to the domestic manufacturer, domestic competition has reduced the price to the consumer. Every family in the country which consumes coarse cotton goods is now deriving a direct and positive advantage from the highest duty on any manufactured article in the present tariff; it is of a better quality and at a cheaper rate than the article was before imported. No theory, no argument, can reason away this fact; it carries conviction to the understanding; the price, the quality, is practical economy, political as well as personal; a saving to the nation and the individual. It is not a solitary item in our experience; nails, gunpowder, umbrellas, cotton and wool cards, present the same results. The purchaser finds these articles at a reduced price, without asking the cause. He may be an active, a conscientious opponent to the encouragement of domestic manufactures; may have heard the charge

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of there being a "tax on the many, a bounty to the few," repeated so often, that it becomes impressed on his belief, while, at the same moment, he is deriving a pecuniary gain from their success, after they have attained the height of their efforts, the command of the consumption. Thousands are reaping the profits of a competition among manufacturers to acquire employment by a cheap and good supply, while they are laboring under the imputation of conspiring to oppress; as to many items, of which they cannot furnish a full supply, they are enabled to check foreign exaction, and, without duly appreciating it, the country is deriving great benefit from their enterprise.

There would seem to be no reasons for apprehending different results from the further extension of the same principles which have hitherto produced these general effects; if there are the same materials and skill which can be applied to the finer fabrics, there can be no more danger in their exclusion than the coarse. Cotton, as an item of clothing, is as much a necessary of life, and gunpowder of defence, as any other; daily and profitable experience teaches us that we are secured from imposition by leaving the supply of these articles in the hands of our countrymen; there may be as much safety in giving them that of woollens and iron.

The experiment has never yet failed, and those who wish it tried on new objects believe it never will. Those who doubt or fear its success should at least be willing that new subjects should be brought to the test of the principle. Without some act of legislation the country must be forever divided in opinion, and her councils agitated by petitions praying for, and remonstrances protesting against, a measure. If it was the introduction of a new feature into our code, it might well be left to the deductions of reasoning; being but the application of an old and original one, coeval with our first act of fiscal legislation, the lights of experience come fairly to its aid. When facts are admitted, and reasons may exist in favor of a proposition, the opposition to it ought not to rest on reasoning and assertion only; some one fact or instance should be required to do away the conviction which has been caused by many. Admitting that, on this great question of the encouragement of manufactures, the arguments tending to prove that there will be a consequent reduction of price are balanced by those which are offered to show that they will be increased, and the mind thus left in doubt, and it cannot be expected that any further admission can be made; admitting that a uniform series of experiments had been successfully tried for thirty years, and all resulted in the decrease of the price of the article, protected by an increased or high duty, it would be strange to contend that this should not turn the scale. In the numerous memorials on this subject, our researches have not enabled us to discover one case mentioned which has supported the objection; we have been furnished with none from any other source of information, and must, therefore, believe there is none. On other subjects, it is conceded that experience affords the safest guides; no good reason appears

why we should exclude it from the investigation of this: when it shall sanction this objection, its full weight ought to be allowed; until this is given to it, while it contradicts it, we cannot yield to its force. It may not be considered unfair to make a reciprocal application of this rule: if the uniform consequence of giving the domestic manufacturer the command of our market, by the imposition of high duties on foreign products, had been to increase the price to the consumer, and he, grown rich by a tax on the country, would be thought to present himself before Congress with poor claims to furnish him with the means of increasing the tax, under the name of protection to him, it would be a conclusive answer—experience is against you. May not the same answer be given to this objection? It is supported by nothing but itself. Hitherto, the profit of the manufacturer has been a saving to the nation; no reasons have been given why it may not be so for the future; it is time enough to give way to the objection when there shall be the same weight of facts to support that there exist to remove it. Let the cupidity of manufacturers be what it may, it can never be gratified when there is no prohibition; foreign supplies must be an effectual security to the consumer, if domestic competition is not; it has never failed; for when a people, so eagle-eyed as ours, are at liberty to select the occupation of their labor, capital, and skill, discern that inordinate or unusual profits accrue to any particular manufacture, the same self-interest which looks to its own gratification will direct their application to the same object, and thus reduce the profits to what is a reasonable compensation. The danger of prohibition is thus averted. If there is reasonable ground to apprehend that this competition may not be an effectual check, prohibition may be avoided, unless required as the foundation of an excise. Where the object is merely protection, a high duty will suffice; the increase of price can never be beyond the duty; according to its rate, it might support an excise on the article protected. It is confidently thought that, even allowing to this objection its possible application, the proposed addition of duties does not throw the consumer into the power of the manufacturer. Very far short of prohibition, the bill does not come in the way of an argument which would appear to apply, if it all, to a system not to be found in any duty proposed. There must have been some misapprehension on this subject; the measure so much deprecated is one which it is said will destroy alike revenue, commerce, agricultural and mechanical labors; the objection cannot be good as to all, and, in part at least, must defeat itself. The average rates of the ad valorem duties are about twenty-eight per cent.; now, if this destroys commerce, by withdrawing materials for carrying, and revenue, by stopping importations, the evil must stop here, and cannot reach the farmer. If the price rises in proportion to the duty, the merchant can still afford to import; the Government will still receive tax. It can only be by a fall in the price that commerce and revenue suffer; it must bring the article cheaper to the consumer; if smuggled, it must reduce

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the price, as it then comes to him duty free; by all these operations the farmer gains. That an argument intended for a prohibition must be fallacious as to a moderate or (if it must be called so) a high duty, is evident from these and other reflections, which will occur to every mind, unless the mode of paying the manufacturer is more oppressive than the merchant.

This is an important inquiry. The mode, the means of payment, constitutes the real price of an article purchased. If a bushel of wheat will buy a yard of linen, it may be supposed an equivalent exchange, and each article worth, say one dollar; it remains equal while the merchant will take wheat at one dollar; when he receives it at fifty cents, either linen has risen, or wheat has fallen, one-half—of no consequence which; it requires two bushels of wheat to purchase one yard of linen. A few years since it was the reverse; one bushel of wheat would buy two yards of linen. Comparing the prices of the two periods with the means of payment, linen has become increased four-fold, as it takes now as much wheat to buy one yard as it did formerly to buy four; linen is therefore four times as dear. Cloth sold five years ago at twelve dollars per yard; six bushels of wheat or six pounds of fine wool would pay for it; now it requires twenty-four bushels of the one, and twenty-four pounds of the other. To keep up the uniformity of price, and bring these articles as cheap to the farmer, linen should be reduced to twenty-five cents and superfine cloth to three dollars a yard. The farmer being able to buy cheapest when he can pay the easiest, he must ask who will give him the greatest quantity of what he wants for the smallest quantity of what he can spare.

The foreign manufacturer of linen and woollen is prevented from purchasing flour, flax, or wool; the importing merchant cannot pay in those articles, and cannot receive them from the farmer in payment for the goods. If the farmer buys them, they afford no additional demand for his produce; he, at all events, cannot be benefited by the foreign manufacturer, or domestic importer or retailer, because neither afford him a good or bad market; they give him none at all; nothing can be received but his money. To whom must he look for that? Evidently to other sources; to some other foreign or domestic market. He then becomes indebted to those other sources for his means of paying for these foreign manufactures, not to the manufacturers or to the sellers of them. These remarks will apply to all other articles for which the farmer cannot pay in produce. When foreign manufacturers, from compulsion or interest, will not take the provisions or raw materials from the consumer, the latter can claim no benefit from them. If he must in some other way obtain the money to pay for them, he can be in no worse situation if he buys them from the domestic than the foreign maker, so far, at least, as respects the means of paying him in products which he either will not or cannot receive. The full force of this remark will apply to the great bulk of foreign manufactures of every nation, and the agricultural productions of the Northern and Middle States. It is as

correct in reasoning as it is true in fact, that the latter will not pay for the former. The gross produce of farms will not now purchase clothing, groceries, and utensils necessary for supporting the families of the farmer, raising the produce of the farms, and carrying it to market. Their surplusses of one article, or various articles, will not enable them to supply the deficiency of another; one thing will not enable them to buy another; one will not pay for another; his own products are useless; those of others are beyond his reach. The obvious remedy, then, is to enable him to sell what he can spare, to buy what he wants. If foreign artisans will not give him broadcloth for wool, linen for flax, or either for flour, and the domestic artisan will, then one great object is accomplished; he has a market; he can exchange; one article will buy another at some rate of exchange; what that rate may be, will depend on mutual wants and mutual interest. The farmer is no longer compelled to seek a money market; he has one for exchange; his product becomes as necessary to supply the wants of the manufacturer as theirs to him, and each has a custom for his surplus. The great chain which forms the circle of society is composed of separate links, each link a distinct occupation—we may suppose a hundred. Take one hundred men, each pursuing a different calling, and separated from others; each deals with the other; one's surplus meets his neighbor's wants; the price is indifferent; relatively, it must be equal; one buys and pays for another, each having ninety-nine customers is secured in employment, and a market for the fruits of his industry; it is permanent, and cannot fluctuate by any foreign action. This circle is independent, perfectly secured from imposition; for as each must have the products of the others, he cannot add to the price of his, without paying more for that which he must purchase; the price of one article must regulate the value of another. If, in this state of things, it should be found out that a foreign supply of the same articles, which are thus furnished from these one hundred different occupations, could be procured from the merchant at one-half the nominal rate of that which had been fixed on by common consent, and each should decide on purchasing the imported article, then each must lose his ninety-nine customers. The merchant will not exchange, but requires money. Where is it to be procured? None can sell his products at half their value, because all have lost their market. There can be no exchange, and no means of raising money to purchase. It becomes an easy question to decide which is "economy to the consumer," which is cheapest.

This comparison may illustrate the operations of society; they are all governed and controlled by mutual dependence and support—all tending to enhance individual and promote public prosperity; they are the same. The nation differs from the village only in extent, both being composed of individuals, and must partake of the qualities and character of its component parts; their interest must be national. In testing these principles by practical operation, in taking the

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above comparison to the actual pursuits of life, it will be found that the facility of exchange is the great ingredient in the prosperity of agriculture; the contraction of our wants, the extension of the means of supplying them, depend on the activity of this principle. In tracing its effects on the cultivators of the soil, there has resulted a general assent to this position; that the farmer who has the greatest means of exchange is the most prosperous, the less dependent on others, the more free to direct his labor to the most profitable production; the more he manufactures in his own family, the better security for a good and against a bad market. In accounting for the different appearance of two adjoining farms, their comparative state of cultivation, improvement, repair, and production, as well as the relative appearance of comfort and enjoyment, it is no bad criterion to examine the clothing of the owners and their families; their domestic or foreign origin will explain the appearance of the farms. But there is one rule which is unerring—the merchant's ledger; the balance on the debtor or credit side is the true touchstone of agricultural prosperity; why not of national? No instance can probably be adduced of a farmer being injured by manufacturing for the use of his family; of the value of his produce or land being depressed by the establishment of manufactures in his neighborhood, or raised by their destruction; of the increase of the wealth, prosperity, or business of a town in an increased ratio to its industry; of national power, resources, and independence being endangered or impaired by the command of its own consumption and means of defence.

Manufactures increase the objects and facilitate the means of exchange. To individuals they afford a nearer and more accessible market, not liable to interruption by war or foreign policy. Roads, rivers, canals, oceans, are but highways to market, the conduits to exchange, the paths by which we send away what we can spare, and bring back what we want. The shorter, the less dangerous the path; the less the expense of travelling, the quicker the return; the more certain the exchange, the better for the producer and the consumer; the more direct the exchange, the smaller the number of intermediate agents who are employed between the two classes, and who must all have their profits, the greater is the amount received to both on the article exchanged. The raiser of flax wants the manufacture, the maker of linen wants the raw material. If they reside near each other, the farmer takes his flax to the manufactory, and brings home his linen; no third person being employed, each receives the full value of his article; the farmer receives the full amount of whatever the flax is worth to the manufacturer; he the full value of what the linen is worth to the farmer. If the manufactory is in a foreign country, the farmer exchanges his flax with the domestic retailer, he remits it to the importer, he to the foreign exporter, he to the manufacturer, who receives it with all the intermediate charges and profits taken from its value to him. He sends back the linen, through the hands of the exporter,

to the importer; he to the retailer; and it comes to the farmer with all their deductions. He then receives as much less linen in exchange for his flax as is equal to the expense of sending his flax to the manufactory and bringing back the linen in exchange. He and the manufacturer are both taxed to the amount of the charges and profits of the double transportation, which would be saved to both if the exchange was made on the spot. The nearer, then, that they can be made to approach each other, the better for both. It increases the means and lessens the expenses of exchange. If it would produce this effect when the raw material will purchase the manufacture at any price, it would be of much greater advantage when it will not be received at all. How, then, a linen manufacture can injure the farmer, cannot be perceived; or what more injury could result from his contiguity to those of woollen, paper, iron, glass, or earthenware. They must bring his provisions, materials, ores, minerals, fuel, and a vast variety of small items from his farm which cannot be exported, and are of no value when confined to a distant market, to a domestic one, which will afford him all he wants in exchange. Such have been the effects in all parts of this country. Wherever there is an opportunity of making the experiment, it would seem impossible to be otherwise; whether it is the mill which grinds his wheat, or the mill which spins his flax, wool, hemp, or cotton, it is the same thing to him as to the quantity of the manufacture he can receive for his raw material. Each is equally affected by the distance and expenses of transportation, which lessen their value.

The manufactories of France and England, united, do not furnish a market for one pound of flour, wool, flax, or hemp. The manufactories in Oneida county, New York, consume annually, it is said, \$110,000 of agricultural productions, which are excluded from use by those who sell us manufactures to the amount of more than forty millions a year; and the few manufactories in the United States consume more of our breadstuffs than the continent of Europe and the East Indies; for the farmers of this country must know that the market for their produce is not in the countries whence they import their manufactures. It has been the policy of the Government to tax at a high rate the produce of our good customers, and the produce of our bad ones at a low rate; and, strange as it may seem, this policy has never been deemed injurious to agriculture. When a high duty is imposed on the good customers of our agriculturists, there is no complaint from them, or those who are so alive to their interest. The island of Madeira consumed, the last year, of our produce \$233,928, British East Indies \$5,740. The duty on Madeira wine is one dollar per gallon, on fine muslins from Calcutta twenty-five per cent. These cases are selected for illustration. The statistical tables of our commerce with other countries all tend to give the same practical answer to a different opinion, and to show its entire futility.

The course of trade and all experience prove, beyond a doubt, that the market for our produce



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does not depend on what we receive in return, and that the market afforded for their manufactures by our policy yields us no equivalent. If the committee are mistaken in this deduction from facts, some reason must be given for the state of our trade with foreign nations. We believe there can be no mystery in its operations, and that ordinary minds can comprehend them. Until better evidence than Treasury documents and general experience be offered, the mind can come to no other conclusions than these:

That foreign nations are governed by their interest and policy in permitting the importation of our produce, excluding or taxing it.

That they will buy what they do want, and will not buy what they do not want.

That their laws form a system of general policy from which they will neither be driven nor persuaded by any means which our Government has yet attempted. If, therefore, it is sound policy to look alone to a foreign market for our agricultural productions, (and one must be found by legislation,) there is but one mode left—aim at their manufactures. Our market cannot be worse than it is; therefore we lose nothing; it may become better. It is not possible that the establishment of manufactures among us can deprive us of the European demand of what we now export, which is neither breadstuff nor raw materials; they exclude these from choice, and take others from necessity. Thus far, then, the farmer is safe. But fears are entertained that the remaining exports may be excluded if we impose additional duties on imported manufactures. Cotton being now our grand staple, it must be important to ascertain the effects on this.

It will be at once evident that, as to the quantity consumed, it is the same whether worked up at home or abroad; if the amount exported becomes lessened by the amount required to make as much cloth as will supply our market, the same amount is retained at home. The cotton planter, then, cannot lose by this effect. Will it affect the price of what is used in our manufactories? As the purchase must precede the manufacture; as there would be a competition in the first instance between two sets of purchasers and consumers, the foreign and domestic; as it must end in the ascendancy of the one or the other, the gainer must pay as much for the raw material as the loser. If he is overbid, he could not procure the raw material while another will give a better price; he cannot continue his ascendancy if he refuses the terms the other offers. As the raw material is indispensable, the raiser of it must profit in every possible event; as the market of the manufactured article can only be secured by the one who commands the material, his interest must, of necessity, be an effectual protection to the planter. Will the price of what is exported be diminished? If this country can produce a quantity sufficient for both the foreign and domestic demand, and no more, then it must be wanted somewhere, and all that is wanted will be bought at a fair price; if less is produced than might be wanted, the price must rise; if more, it must fall. But, on this subject, time is thrown

away on conjecture. It is well known that this country can produce more cotton than will meet all demands; that the foreign market is completely gorged, and the prices rapidly declining. In the foreign market we have much competition; it is not extending with our means of supply, but contracting; the reasons for creating and extending a domestic one would, to the interest of the planter, seem imperious. Will foreign nations change their policy, and impose additional burdens on the importation of our cotton? This affords room for conjecture. There are no arguments so difficult to answer as general ones, which cannot be located, which will not be specified, and, from their nature, have their origin not in fact, but fancy; their want of weight in every other analogous case will not prevent their being pressed in a new one. If those who urge them will agree that their validity shall be tested by any known rule, resulting from our legislative or commercial experience, there would be some means of ending the discussion. It is hoped that the light which practice has shed on the other subjects of legislation may not be lost on this. If facts tend to one conclusion, it must be taken to be the just one, unless reason absolutely rejects it.

If England wants our cotton, she will take it, and, in proportion to the extent of that want, will receive it on terms more or less favorable; taking it while it is her interest, and no longer. So far as our supply of her market depends on the ordinary rules of trade, it has been considered, and has no bearing on the present view of the subject. The question is, whether her Government will depart from interest to considerations of policy, and adopt a retaliatory measure. She has not done it in consequence of our exclusion of the coarse cottons from her East India colonies; she did not do it when we, in 1812, doubled the duties on all cotton and woollen goods—her two favorite manufactures; we cannot perceive why she should do it if the proposed increase be made. Her corn laws do not relax or extend in rigor according to the ebbs and flows in our tariff. The imposition of our war duties did not occasion the exclusion of our raw materials; their abolition did not give them a better market. The flourishing state of our manufactures in 1815 and 1816 did not produce any new measure of retaliation or policy; their depression since has not brought about the repeal of any old one. Our free intercourse with her colonies did not affect her navigation acts; our non-intercourse now does not make them more rigid. The immense amount of her manufactures which we purchase, failing to produce any feeling of peculiar friendship beyond her interest, it is hard to believe that the diminution of the amount will create a spirit of hostility adverse to her interest. Fully convinced that her future course of policy will be guided by the principles of the past, and seeing in that no indications of the course apprehended, we do not think there can be any reasonable fears. Unwilling to pursue this investigation into detail, we close it by remarking, that thus far the cotton planter has benefited by high duties on cotton; the East Indies has afforded him no mar-

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ket; the exclusion of the fabrics of that country has certainly opened a new market, and as certainly it has not impaired the European, for that is glutted. If the exclusion should be extended to all India cottons and nankeens, this new market would be increased, and probably to a greater extent than the interest of any European nation would permit it to diminish theirs. As an agricultural objection, therefore, it seems entitled to less weight from the raiser of cotton than any other; for though the East Indies afford a very bad and small market for other productions, they still take some; but of cotton they do not, and never will, take any.

If it be impracticable to legislate a nation into wealth, and impolitic to attempt it, it does not follow that it may not be preserved from poverty; if neither object is attainable, it is not perceived that Government can be of any use to the people; if its operations can tend neither to preserve nor increase the fruits of their labor, we are at a loss to know the legitimate objects of legislation. To what object ought all national machinery to tend, but the common defence and general welfare of the people? If this does not consist in increasing their resources, as well as preventing their extinction, we must pursue this subject no further till better informed.

The encouragement of manufactures is called coercion—a forcing from one occupation to another. Like the other objections, the best answer seems to this is, its want of application in fact. During the late war, manufactures flourished; farmers were not then forced from their occupations. The planter of the South was not prevented from raising cotton; he had no foreign market, but he had a domestic one. But he felt the practical difference between a market at home and one abroad; the land transportation from the place of production to the place of manufacture, and back again, taught him how much of the value of the raw material, to him, was diminished by the intermediate expenses. Had their manufactories been at home, had the same persons who then established them at the North commenced and completed them to the South, it would have been called no forcing of occupation, no tax on agriculture. One pound of cotton will now pay for one yard of cotton cloth; when it shall appear that, before the establishment of our cotton manufactories, or since their decline, a pound of cotton has produced more to the raiser, it will be time to answer any additional objections of this kind. Generally speaking, as there were no manufactories in the Southern States, their existence in the Northern and Middle could not have forced them from their occupation, unless the current of emigration from the South to the North should have been the fact from which this objection has been raised. In Kentucky there were manufactories to a great extent; the farmers in their neighborhood, and those who represent them, can say whether they are now more prosperous; whether they have now a greater freedom in the selection of their pursuits, or profit in following them. If the same question were put to the farmers in the Northern

and Middle States; if any member of this House, who represents them, were asked if he could point out an instance of even an individual farmer who was against his will forced to abandon his soil, and go to a manufactory for employment, the force of this objection can be tested by the application of theory to practice.

It may be asserted with truth, that, wherever the principle has been fairly tried, it has been found that the interest of the farmer and manufacturer has been completely identified; one rises and falls with the other. This is verified not only by personal observation, but attested in the most impressive manner by the petitions presented to the present Congress. Last year thousands of farmers asked you for protection to manufactures; they were from States in all of which their practical effects had been seen and felt for years. With all the efforts used to excite opposition and alarm during the present year, it is a remarkable fact, that, in the whole scope of country from Maryland to New Hampshire, a solitary petition, memorial, or remonstrance of farmers, has not been offered in opposition to the proposed tariff. Those which have been presented are from parts of the country where manufactures never were in operation, and where no correct opinion could be formed of their effects. So far, then, as respects farmers, this is the result; when their opinion has been founded in fact, it is favorable to manufactures; when from theory only, it is unfavorable. There are memorials, it is true, from another class, who, in the name and for the protection of the farmers, decry the ruinous effects of this measure on agriculture. It is not yet known that farmers have not discernment to know, and spirit to complain of their grievances; they have shown it, and asked for a measure like this. When as numerous petitions from them (not from others in their name) shall ask for its rejection, then, petitions being balanced, the question may be settled by general principles of policy.

The war duties forced no man from his employment, but gave him security in its pursuit, opened new sources, gave the means of selecting the most profitable, most suited to inclination, habit, and capacity. The war built up establishments which were rapidly developing the resources and employing all the industry of the nation. The peace, and the repeal of the war duties, prostrated those establishments, and forced the mechanic, the artisan, from an occupation to which he was led by education, habit, and interest, and in which he felt his best security to be the policy of the Government coinciding with the general interest of the people. If complaints of forcing from profitable to ruinous occupations are just from any one class, they must come from those who are practically and virtually forced by the policy of the Government to abandon their trade and occupation. Give a mechanic appropriate employment, he acquires wealth for himself, and adds to the interest of others; drive him to the soil for support, he makes a bad farmer: he may raise enough to feed, but cannot clothe his family. If any of us have seen the instances in actual life of me-

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chanics forced, from the want of employment, to turn farmers, and been enabled to compare their relative situations in both occupations, we can duly estimate the consequences.

If farmers can be considered as a distinct class of society, and their interest separated from the rest of the nation, it is very certain that it cannot be promoted by increasing the number of those who engage in its pursuits; it increases the competition, and diminishes the profits of the productions. To the nation, it is not so important that their pursuits should be productive of amount as value, extensive as profitable. The great object is to afford a market, and give a value to what is raised. We abound in provisions and raw materials; more is now produced than can be consumed or sold; to increase the quantity is only a loss to the raiser; it can give no new value to what he now has, or what he may acquire; it can give him no profit. To the Government it can give no revenue, for it does not increase his means of consuming articles of foreign production; and from no other source of taxation does it leave a surplus that can be spared from the wants of the farmer to the calls of the Treasury. Who, then, can be interested in the mere increase of agricultural products, which want a market abroad and value at home? The definition and application to agriculture of the terms *coercion*, *restriction*, and *forcing of occupations*, is now practically understood by all those who will look to the state of the country. Where there is no prohibition, duty, or bounty on imports or exports, shipping or tonnage—occupations, trade, and commerce are free. Whether these clogs are imposed by our own or a foreign Government, is immaterial; so far as they extend, they prevent the people from the perfect freedom of choice of occupation, employment, and production; and that freedom can only be restored by the removal of these clogs. Whether the character of the proposed bill has been fairly judged of, will become apparent. The clogs on our agricultural products are not on their export; there is perfect freedom in raising and shipping them, but the corn laws of England, France, and Spain, prevent their consumption; when they reach their shores, free trade ends. The worst effect of domestic coercion would be to prevent their production or exportation; foreign coercion becomes as effectual when it accomplishes the same object, by rendering production and exportation unavailing; the privilege of raising is a useless one, when there is a prohibition to sell or to use. It cannot be less grating to national feeling that it is the act of a foreign Government. The duty of forty cents a pound on our dressed flax is no less a prohibition to our farmer to raise any more than suffices for his wants than if a positive law forbade it; the bounty on linen is as effectual a check on the making of it here as a domestic excise. The operation of a foreign system, which excludes our productions and forces theirs on us, is the practical restraint on agriculture, the essence of a system of restriction under which the whole country now labors; which, when imposed by a foreign Government, seems to be more admired than dreaded

by those who, speaking in the name, assume the protection of farmers. Every farm in this nation will produce flax, yet we do not export a pound; foreign Governments refuse it a market. We do not make our own linen; they give a bounty on theirs, to prevent us from making it. They thus, by legislation, force us from the market, acquire its command; the farmer is prevented from raising flax, and, forced to another product, he tries wool, hemp, breadstuffs; they are also excluded; he is not left free to sell to the people of England, or they to buy what they want. He is virtually bound to raise only what their Government will permit him to dispose of; his freedom of occupation is gone; it is controlled by a foreign Power; directed by their policy, he is driven to the pursuit which best meets their views, and most promotes the interests of its subjects. The coercion rests not here; it not only forces ours out, but thrusts their productions in, and the domestic market is thus taken from the farmer. When national policy and individual association combine to prevent our manufacturers from affording the home market to the farmer, and succeed in the object, coercion becomes complete. How far the Middle and Western States are now from suffering under the full scope of a foreign restrictive policy, the condition of the farmers will best testify. If the North is saved, it is by manufactures; if the South is yet free, it is because the great manufacturing nations find it their interest, and not against their policy, to permit the consumption of their staples. It would, perhaps, not be a useless inquiry to ask whether their demand and price are increasing? The state of the country fully justifies this remark: foreign policy has forced from employment our agriculture, manufactures, and commerce; each interest is low, each complaining; with the infinite capacity to produce, fabricate, and distribute, the power has become useless, without the means of using it; our industry has become paralyzed by the employment of foreign, which has been forced on us by a persevering, unyielding course of legislation by other nations. Now, when our citizens ask of their own representatives to counteract foreign laws, systems, and combinations, and, if not to retaliate, at least to compel them to restore to us a freedom they have taken away or destroyed—the freedom of production and exchange—that, if the monopoly of our market is to be given by legislation, it shall be such as flows from a conviction of its tendency to promote our interest, and, enacted by our representatives, not such as it may please a foreign legislator or monarch to prescribe to us; how far the increased duties proposed will tend to more or less balance the foreign coercion which now bears grievously on all the country; how far it is defensive or offensive; how far it accords with or contradicts the policy which this Government has adopted in relation to other interests, the House must determine.

There is no portion of the community more injuriously affected by changes in the policy of a country than the farmers; none have suffered more seriously by the repeal of the duties imposed during the war; none felt more practically the

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dependence on a foreign market for their means of exchange. While they were at his door, the price of goods did not affect him; produce and goods rose together; the same quantity of one would still buy the same amount of the other. Now the scene is changed; goods remain at the old prices, but it takes three or four times the quantity of produce to purchase the same amount. It is often mentioned, as a symptom of better times, "goods are looking up." This may be, by some, deemed an indication of returning prosperity; but, however it may be to others, to the farmer it is ominous of despair; his produce is looking down. When goods look one way, and grain another, the farmer must look to some new mode of turning his grain into something which will produce him his necessities. While every change depresses domestic, and swells the price of foreign products, he feels coercion, and what it is to be forced, not from his occupation, but from all the comforts it once produced him. 'Till goods fall as much as grain, or grain rises to the price of goods, the farmer pays two or three hundred per cent. more for them, though they may be quoted at the old nominal rates. He who, in other times, could pay for his iron by produce, or the use of his teams when their labor was not required on his farm, can now estimate the difference between buying at the forge or at the store. When iron was at a duty of  $32\frac{1}{2}$  per cent. personal observation did not cause the objection that it forced the farmer from his occupation, or made it less profitable; when, by the existing tariff, it was reduced from 30 per cent. to \$9 per ton, it neither gave new employment nor increased profits to agriculture. In extending the observation to all other articles of which our country furnishes the raw material, or which, when made at home, could be paid for in provisions, it is thought to be fully justified by the melancholy experience of the last four years. It has pointed out to the farmer in what true economy consists; it has taught him what is cheap and what is dear; the difference between having his market at his door, or transferred to a foreign country. The books of the merchants, the dockets of justices and courts, tell a story that all can understand. It was not so when manufactures flourished; it cannot continue so when they revive. The farmer will be the first to profit by the change; his is the first interest that should excite our attention; though we may not legislate him into wealth, we may save him from the danger which hangs over him. While we refuse to counteract the coercion of foreign legislation, we do not make his occupation free by removing foreign restraints on his markets, or give him an equivalent by securing him a new one. It is said, this new market cannot be afforded; that the farmer now feeds all our population, and can feed no more in any event. If this remark were true to its full extent, it could only apply to provisions. The production of raw materials, which have now no value; the extraction of ores and minerals from the earth, which now will not pay the expense; the supply of fuel, which is now useless; the increased demand for potash and dye-stuffs,

for the various small items of the produce of a farm, which, though not necessities, are comforts, and may add very importantly to the farmer's market, as the same population has greater means of payment—all tend to enlarge his means of exchange, his sources of occupation. The mere necessities of life are few in number and low in value; their production is not the most profitable employment of agriculture; it is, perhaps, the most expensive. The garden, the orchard, the dairy and poultry yard, the sty and the stall, are matters of no little importance; they afford more profit and require less labor than the grain field. The market for their production depends not on the mere amount of population, but the means of that population to extend their purchases beyond necessities to comforts and luxuries. The supply of these is the farmer's profit; the raising of them employs the labor and attention of children, (who are of no use in a field,) by occupations in which are combined health, pleasure, economy, and industry. If foreign bounties and duties were removed or counteracted, the culture of flax, hemp, and wool, would be no less honorable or useful pursuits of agriculture than grain; and there is one raw material for the culture of which this country is well adapted, in which is only required the attention of children to enable insects to labor for the emolument of the farmer, raw silk. These are all new sources of wealth, by the establishment of manufactures, though the population is the same. There is another: the mechanics, who are, for want of employment, now compelled to procure a scanty subsistence by the cultivation of the soil, without means to purchase, or stock, or knowledge to cultivate a farm; who add nothing to their own or the wealth of society, who have nothing to spare for the support of Government; forming no part of the solid yeomanry of the country, who, identified with its soil and strength, may be truly called "the salt of the earth;" but a miserable tenantry or mere occupants, who, having been forced by foreign policy from the occupations for which they are fitted, are now only waiting for some act of this Government which will enable them to resume them—the number of these is not small, and each one of these and their families will become new customers to the farmers. Foreign artisans must not be overlooked: foreign capital will flow to us in no small current; foreign owners and foreign artisans, who are now waiting to see in our legislation some assurance of permanent policy. They are a valuable, useful class of citizens abroad, and, so far as our observation extends, we should do them injustice in withholding the expression of our opinion that they are distinguished for their public spirit, their good conduct, and devotion to the true interests of their adopted country.

There is one other aid to agriculture which must be admitted to be a natural consequence of the establishment of domestic manufactures.—Whatever the market of the farmer may be, it will be permanent; co-extensive with the consumption of the country, it will expand with its increase. He will know to what objects to apply

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his labor and skill; the demand will be steady; he can vary his culture to meet the varying wants of society; he will look alone to his own Government, to his own Representatives, for the rules of policy which may have a bearing on his occupations; which can be affected only by those who are united alike with him in their devotion to the common interest of their own common country; whose pursuits will intermingle with his, forming the common mass of national industry, from which no just Government can withhold its protection.

With the notice of one other objection the committee will close their remarks, with not less relief to themselves than to the House.

If manufactures will produce these effects, why are they not established? If the foreign article can be undersold, why is it not done without the aid of legislation? We answer, because the effects of foreign legislation cannot be removed by individual exertion or enterprise. Whatever may be done here by our citizens to acquire the command of our consumption is equalled by foreign individuals to retain it; each feel the advantages, know the profits, and make equal exertions. The superior numbers and greater wealth of foreign capitalists are, of themselves, formidable obstacles; but, when backed by the policy and wealth of a nation, by their laws and systems, the competition becomes unequal. To restore the balance, to make the competition a fair one between individuals, the weight of one Government must be taken from the one scale, or balanced by the same weight of another Government in the other. We might here ask, if this would insure the desired protection, why withhold it?

When business has for years taken an established course, it is no easy matter to divert it. The progress of our manufactures was slow till the late war. The consequent diminution of imports, and the duplication of the permanent duties, gave them a powerful impulse; they were rapidly advancing to meet the full demands of consumers. The revulsion caused by the present modification of the tariff has been in force ever since. If it has been beneficial to the country, then let it continue; but if injurious, let it be stopped; legislation caused, and alone can cure it. The war duties were not imposed for the protection of manufactures, and repealed when the object was found unattainable or prejudicial. They were imposed for the revenue—the object was effected; they protected manufactures—the country prospered; an excise was built on manufactures—the support was mutual. The Government wanted revenue, and obtained it; it now wants it, and, the same means in their power; why, then, not resort to them—if for no other, at least the same reasons as before? It ought not to make revenue the less acceptable because it encourages domestic industry.

If the enterprise and capital of individuals were competent to the object, it must be the work of time; before it arrives, the public resources will require new means of supply; it then becomes the duty of Congress to hasten the time, and this for its own protection and support. But, if it should

be true that, in the present state of the world, no new manufacture can be successfully established without legislative aid, (that it is true, is proved by the experience of all manufacturing nations, confirmed by our own, and it has by one of our greatest statesmen been declared to be a maxim of universal application,) the fact once established, it would be in other subjects deemed superfluous to assign the reasons, (for the want of reason cannot do away facts;) but it being required on this subject that no proposition can be made out from fact and experience alone, it is better to meet than evade the requisition. A most obvious reason occurs at once, that a new manufacture can only attain success by excluding an old one, which is in possession of the market; without the aid of a law on either side, or the competition of any capital, except of the individuals who are struggling for the market, the one who can make it the interest of the consumer to purchase from him must prevail, if the capital of both is equal; if it is unequal, the greatest will eventually prevail. The competition is not for the momentary, but the permanent command of the market; the losses, during the temporary contest, will be refunded by the future profits when the market is secured. Who then can hold out the longest becomes the question. This is at once settled, when a Government bounty comes in aid of the one set. An excise drawback, or a custom bounty, is a contribution from the public funds in aid of individual enterprise to acquire or retain the supply of a foreign market; it is not merely an addition to the capital of the individual, but a gratuitous donation to him. Competition must cease between them, unless one individual has funds equal not only to the other, but to his Government likewise. Hence, no new establishment, which diverts employment from an old one, can, under such circumstances, succeed. It will be an ungenerous objection to say that our Government is not bound to furnish capital to manufacturers; that is not asked or expected. But, it is understood that, in answering the objection now under consideration, it is taken for granted that manufactures, once established, are of advantage to the country at large; and that the question is, whether Government should interfere to aid them in their infancy, or whether such interference is necessary? If this question be answered yes, then it is to be hoped that it will not be contended that it is generous or just to withhold that interference on account of the capital of the persons concerned; that moderate capital, skill, industry, and enterprise, must be suffered to sink under the foreign action brought to bear upon it; nothing be thought worthy of legislative aid but immense capitals, which require less in proportion to their amount. While on this subject, it would be proper to remark, that, before this objection should have any influence on us, some standard should be fixed, some sum named by law, which should be deemed as bringing the proprietors within the policy of protection. Manufacturers would then know that if they invested to that amount, they could compete with the foreigner. It is not so important what sum should be named,

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as that some should be fixed upon; it is believed that a Republican Legislature would not require an amount beyond the means of their constituents to procure. If it was more consistent with theirs, and the principles and practice of the Government, to graduate the protection in the ratio of the wealth of those who asked it, that would be more just than to refuse it wholly to the middling class. If the nation at large will be benefited by protection to manufacturers, it is no answer to say their capital is not sufficient. We must say what is sufficient; till that is done, the answer will not be accepted, for it affords no rule, no security; it means any thing, nothing; it becomes mockery. If manufactures are a national interest, and justify protection, there cannot be a better rule, more equal and fair, than to require, as a preliminary to protection, the investment of the same amount of capital as by our uniform legislation for thirty years has been required of another co-ordinate interest—commerce. Equal justice to all makes it our duty to make the comparison; it is done with no unfriendly or invidious feeling, but merely to remind the House that want of capital has never excluded the merchant from the pale of protection; if he had enough to commence his operations, those operations have been protected from foreign aggression. It is believed that the capital invested in manufactures has been equal to the investments in commercial pursuits, in proportion to the amount of business done, and, including the credits at the custom-house, that commerce has been conducted more on credit than manufactures.

A linen or glass manufactory is about to be established in our country; there is capital to erect the buildings, purchase the machinery, and stock to commence; the proprietors meet at once competition from the following sources: foreign manufacturers, foreign exporters, American importers, American retailers, and a foreign Government. The American manufacturer stands alone; he asks for a fair chance, fair play. Willing to take a contest against equal force, but unable to contend against numbers, wealth, and power, he calls on his Government to equalize the competition; to make it individual; to impose on the importation a duty equal to the premium which the foreign exporter receives from his Government, for the express purpose of breaking down the competition. A custom bounty, or excise drawback, is not to give the command of the home consumption; that is done by prohibition and duty; it is to prevent us from using our raw materials; to compel us to use theirs; to employ their labor, and give a value to their industry. The American manufacturer is the only person who can obstruct their policy; if he can be broken down, the American people must depend on England for a market as well as for the articles of their consumption. It would not be unreasonable to call on this Government to give them duties beyond the bounty. If the duty is twenty-five, and the bounty twenty-five, there is no protection except of a negative kind; the bounty received from one Government equals the duty imposed by the other; yet even this meets

with objections; it is called a restrictive system. In the case of glass, the oppression on our manufacturer is still greater; the custom bounty, or excise drawback, is equal to twenty-eight cents a pound; yet the proposed import duty of ten cents a pound has not—except in one memorial, (Richmond) to the liberal principles of which the committee must again give their approbation—been excepted from the general and heavy charges made against the new tariff. Unless manufactures are to be proscribed; if those engaged in their pursuits, and to whose benefit they tend, are to be thus abandoned; if the unequal, and (in part) unnatural, anti-national pressure under which they labor is to be increased by a foreign Government, and ours stands neutral—it may be asked, for what Government is instituted? Where are the benefits imparted? The farmer has the raw material, the artisan the capital and skill; but they cannot use it. If on the faith of a revenue system the capital is invested, the labor of years is lost by a reduction of duties below the amount of foreign bounties and drawbacks. It is not the manufacturers alone who suffer; they alone, it must be remembered, are the class of men who can ever interpose between the importer and consumer; put them down, the agriculture of the country is completely dependent on foreign Powers. Such is our present situation; the people of this nation cannot believe it is their interest to remain so; they support the Government, and ask protection. The committee think it their duty not to withhold it, and to afford it to such extent as will give a fair opportunity of bringing into active and useful operation all the resources of the country; to give a market and a value to all the products of our soil; to counteract foreign legislation, so far as it bears on the industry of our own people, by directing its pursuits and occupations to subserve the policy and interest of other nations.

If it should be remarked that the proposed bill falls short of the principles on which it is founded, it must not be alleged as evidence of a want of confidence in their correctness, but of the deference which is felt and paid to the opinions of those who differ from us in their views, equally conscientious with ourselves; it was due to all the members of this House to convince them that our convictions are so decided and deliberate that we would be content for the present to lay a proper foundation, leaving it to experience to direct what should be built upon it; if insecure, the more easily removed; if the substantial basis of national industry, the easier to finish the structure.

[The tabular statements accompanying the report, being of great volume, are necessarily omitted.]

## DOCUMENTS ACCOMPANYING THE REPORT.

*To the honorable the Senate and House of Representatives of the United States:*

The memorial of the Chamber of Commerce of the city of New York respectfully shows: That your memorialists view with much alarm the renewal of an attempt to repeal the acts making dis-

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crimination between American and foreign duties on imports and tonnage, and pray leave to submit to the consideration of Congress the following objections: *First.* It will diminish the revenue to an amount which, taking past years as the guide, would not be less than \$450,000 per annum. *Secondly.* It will essentially injure the commerce of the United States, as its effects will be, by opening the market for freight to the lowest bidder, to shift the carrying trade from the hands of our own merchants into those of foreigners. This, your memorialists believe, will appear from the following considerations: *First.* Foreigners build their vessels much cheaper than we do. From actual calculation, it is found that a vessel built of European oak, and equal to those built of live oak, (which, besides, is nearly exhausted,) costs, when equipped for sea, at the rate of \$36½ per ton; and, if built in Finland, of their fir, of which they have abundance, equal in duration to our common oak, and fitted for sea in the same manner, she will cost at the rate of \$19 per ton; while the American vessel, built of our common oak, and not so well equipped, will cost at the rate of from \$40 to \$45 per ton; but built of live oak and cedar, she will cost at the rate of from \$50 to \$55 per ton.

*Secondly.* The materials composing equipment, such as iron, hemp, sailcloth, &c., are all cheaper abroad than they are here, and the price of labor for working them is supposed to be fifty per cent. less there than in the United States.

*Thirdly.* Foreigners navigate cheaper, seamen's wages are lower, and many of their crews consist of apprentices without wages. The apprentice act of Great Britain renders it incumbent on every owner or master of a vessel to take with him a certain number of apprentices; and this they find so advantageous that they frequently double or treble that number, more especially vessels from the North of England. Every merchant engaged in commerce knows that the Hollanders, Hamburgers, Danes, Swedes, &c. man their vessels with a still greater proportion of apprentices; and in the cheapness of their living, clothing, &c. they have a very material advantage over the vessels of the United States.

Thus it appears that foreigners can build cheaper, equip cheaper, and sail their vessels cheaper, than we can; and it may be added, that Europeans are generally satisfied with a less gain than the American merchant can afford to receive.

*Lastly.* Although it has been said that for us to meet the advance on the part of Great Britain, and to repeal our countervailing acts, would place the two nations on an equal footing, yet your memorialists conceive that, while Great Britain retains her present navigation act, this would be very wide of the truth. We, on our part, should thus permit Great Britain to bring hither not only goods the growth or manufacture of that country, but of all others; while, on her part, by the navigation act we have just referred to, we shall be expressly confined to the carriage of goods the growth or manufacture of the United States. To this may be added, that British vessels would then bring a cargo from their own country to this, take a freight

here to their colonies where our vessels are not admitted, and from thence a third freight home: making thus three freights in one voyage. The value of the importation cargoes is so much greater than the value of our exportation dutiable cargoes, that the extra duties paid by the foreigner are in many cases equal, and in some cases more than equal to the whole freight; so that the acts which are now proposed to be abolished operate nearly as a prohibition to the foreigner, and leave us, in a measure, without competitors in our own markets. After all that has been said, it hardly needs to be added, that if our ports are thrown open to foreign on the same terms with our own vessels, as by this repeal is contemplated, (for it is in vain to attempt to confine the measure to the British,) they will crowd our wharves, underbid our freight, monopolize the markets, and leave American vessels idly to rot in our docks. Your memorialists have therefore no hesitation in declaring that, in their opinion, this measure will be a fatal blow to the American carrying trade. It would be easy to show, in detail; that this would, in its consequences, prove extremely injurious to the agricultural and the mechanical classes of our citizens; a few general observations only will be indulged.

*First.* As to the agricultural. Although, generally speaking, freight is paid by the consumer, and therefore it may be said it is immaterial to the farmer how high or low it may be, yet this is not the case when the demand ceases or slackens; it then falls back on the husbandman. But to transfer our carrying trade to foreigners will be to lessen very much the chance of the demand.

The active enterprise of the American merchant is constantly looking abroad to every part of the world for a market; and if it is any where to be found, or if there is only a reasonable presumption that it may be found, the farmer meets with a ready vent for his produce. Perhaps the calculations of the merchant may be disappointed, and he even ruined; yet the misfortune reaches not the farmer; he has the same benefit of a good market: but should the American vessels once disappear, he must then be entirely at the mercy of chance adventures for a market; and when the demand is not very great, the price of the freight will be deducted from the article itself. All this must necessarily tend essentially to lessen the value of the farmer's produce.

*Secondly.* As to the mechanical. That numerous class of mechanics who are connected with ship-building, the carpenter, the blacksmith, the sail-maker, the ropemaker, &c., &c., will of course be deprived of employment; their labor will be neither wanted nor paid for.

To conclude: our ships being thus banished from our shores, we shall no longer furnish a nursery for our seamen, but that valuable class of citizens will be driven to seek for their bread in other countries; and in any future European wars which may happen, and which are constantly liable to happen, we shall find ourselves without seamen or ships, to avail ourselves of that neutral position which reflection and experience equally warrant

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us in calculating upon as one of the blessings allied to our remote and secure situation.

On the whole, your memorialists cannot refrain from expressing the belief with which they are strongly impressed, that to repeal the discriminating laws, which have operated so happily to increase our navigation and commerce, would be a measure highly prejudicial to various and important interests in the community, detrimental to the revenue of the country, and, in a national point of view, extremely impolitic. They therefore pray that the repeal may not take place.

JOHN MURRAY.

J. W. LAWRENCE, *Secretary.*

NEW YORK, January 15, 1803.

*Importations of goods from Europe paying ad valorem duties.*

	Per cent.
1816. In American vessels - \$83,676,283 = 83.67	
In foreign vessels - 8,706,122 = 8.7	
1817. In American vessels - 30,350,835 = 30.35	
In foreign vessels - 5,750,856 = 5.75	
1818. In American vessels - 49,719,785 = 49.71	
In foreign vessels - 5,324,243 = 5.32	

*Importations from France.*

1816. In American vessels - 8,816,147 = 8.8	
In foreign vessels - 383,433 = .3	
1817. In American vessels - 3,493,176 = 3.4	
In foreign vessels - 488,072 = .4	
1818. In American vessels - 6,668,600 = 6.6	
In foreign vessels - 688,195 = .6	

*To the Senate and House of Representatives of the United States of America in Congress assembled: The memorial of the Chamber of Commerce of the city of New York respectfully sheweth:*

That your memorialists have witnessed, with feelings of deep concern, the consequences resulting to the shipping interest of the United States from the discriminating duties established in France on the staple products of this country.

At the period of their imposition, and for a considerable time subsequent to the late war in Europe, the trade carried on by French vessels with the United States was chiefly confined to New Orleans and other Southern ports, whose productions constitute the principal exports from this country to France, whilst their interest in shipping is very limited; so that the effects of the enormous discriminating duties payable on the importations into France of cotton and tobacco, in transferring to French vessels the carrying to that country, were not immediately perceived or felt by the ship owners or merchants in this quarter of the Union. But the severe losses sustained by those who employed our vessels in that trade have since led to an investigation of their causes, and created a universal feeling of the injury and injustice to which our flag is subjected.

In giving to this subject the attention which its importance demands, your memorialists find that the foreign tonnage duty and light money payable in the United States are very nearly equal to the foreign tonnage duty and port charges in France, and

may therefore be considered as regulated upon the principle of a just and fair reciprocity; whilst the discriminating duties imposed on the importation of merchandise operate on the shipping interests of the two countries in a manner altogether disproportionate and unequal.

The foreign or discriminating duties paid by American vessels importing the following articles into France, are: 1½ cent per pound (French weight) on cotton; 1½ cent per pound on tobacco; 55 cents per 100 pounds on potashes; which extra duties exceed the whole freight now paid for the transportation of those articles from the United States, whether in French or in American bottoms.

The present rates of freight, in French vessels, are about 1½ cent per pound for cotton; ¾ cent per pound for tobacco; ½ cent per pound for potashes; and, in American vessels, about one-third below these rates; making the difference of duty by a French vessel exceed the gross amount of freight by an American vessel at least one-third.

To form an estimate of the practical result of these regulations, it will be assumed that a vessel of 300 register tons burden will carry 560,000 pounds weight of tobacco; the difference of duty on which, at 1½ cent per lb. would be - \$6,300

Which is equivalent to twenty-one dollars per register ton.

Or, in a vessel of the same description, carrying 280,000 pounds weight of cotton, and 220,000 pounds of potashes, the difference of duty, estimated at 1½ cent on the cotton, is - - - - 4,200  
And that on the potashes, at 55 cents per 100lb., is - - - - 1,210

Would be, together - - - - \$5,410

Which is equivalent to eighteen dollars per register ton.

The discriminating duties chargeable on the three articles above enumerated, which constitute the bulk of our exports to France, form an aggregate much greater than the foreign duty of ten per cent. payable in the United States would amount to, if calculated on the whole importations from France. And the experience of the last two years confirms, (what, indeed, is sufficiently obvious from the preceding statement,) that a perseverance in the present regulations of our intercourse with France must operate to exclude American vessels from all participation in the carrying trade connected with it.

Your memorialists, in earnestly soliciting that the attention of your honorable body may be engaged in devising some remedy for an evil so serious and alarming, beg leave to suggest their conviction of the utter inefficacy of any system of countervailing discriminating duties to be levied on the importations into the United States of French merchandise, inasmuch as the articles which would be the necessary objects of such duties bear no proportion in their bulk, and in the price of their



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transportation, to those which form our exports to France. And the course of the colonial trade, moreover, enables French vessels to avoid the inconveniences of performing the voyage across the Atlantic in ballast, by taking a freight from the ports of France to those of her colonies, and then turning their course advantageously to our ports, either in ballast, or with colonial produce; whilst our vessels, generally, return direct from France in ballast, or only with inconsiderable ladings.

To exhibit in its proper light the importance of the subject under consideration, it will be necessary not only to advert to the actual amount of tonnage employed in the transportation of our produce to France compared with the aggregate tonnage employed in foreign trade generally, but also to take into view their future relative proportions when our trade to France shall have received all the extension of which it is susceptible, by the progressive increase in the cultivation of our Southern products, and when our shipping shall have experienced the reduction it is to suffer by the effects of the further development of the actual state of our foreign commerce.

It would be superfluous to enter into details to show how extensively, and almost entirely, all the sources of that commerce are cut off. It is a lamentable fact, that more than half the number of vessels lately arrived in this from foreign ports are dismantled, from the absolute absence of any advantageous object of commercial pursuit. And this state of commerce seems the natural and necessary result of the new order of things which has prevailed since the pacification of Europe. Every restraint that lately shackled the navigation of the principal maritime nations of Europe has been removed, whilst the general trade and navigation of those States are, at the same time, regulated with a studious regard to the interests of their own subjects. So that the United States have not only ceased to be the carriers for Europe but are deprived of the means of entering into a fair competition in the transportation to foreign countries of the principal products of their own soil.

It would seem obvious that, during the continuance of a state of peace in Europe, the great elements of our commerce in that quarter of the globe will be confined to the exchange of our products for such articles of foreign production as may be required for home consumption.

The quantity of American cotton, tobacco, potashes, and other staples, now consumed in France, cannot be correctly stated by your memorialists, but they presume it to be equal to a fourth of the whole quantity exported to Europe.

The aggregate tonnage employed last year in the direct trade from the United States to France is estimated at fifty thousand tons; in addition to which, an indirect trade of considerable extent has been carried on by the circuitous channel of England. (The saving on the duties, by reshipping our cotton and tobacco thence to France, in French vessels, instead of shipping them direct from the United States, in American vessels, being more than equivalent to the extra freight and charges attending the additional voyage.)

If we limit our views of this carrying trade to the employment of fifty thousand tons of shipping, the freight out and home, calculating twenty dollars per ton, amounts to one million of dollars; which sum, if gained by vessels, might justly be considered as so much capital added annually to the stock of national wealth.

However small the net profit may be to the ship owners on this amount of freight, the disbursements for the equipment, and the wages for the navigation of the vessels, would be left at home; and, together with the employment it would require of so large a body of seamen, would materially conduce to create and maintain the elements necessary to advance our commercial and naval interests.

The act of Congress offering to foreign nations the means of a free intercourse with this country, on terms of perfect reciprocity, has not, as is believed by your memorialists, been found as beneficial in its operation as was justly to have been expected.

Those nations whose acceptance of the invitation it held forth might subvert the views and interests of the United States are found to remain passive; while Holland, Sweden, Prussia, and the Hanseatic Towns, adopting the principle of reciprocity, secure to themselves an important exemption in our ports, without affording any privilege in theirs not before enjoyed by the United States, and, in fact, gratuitously granted to every other nation.

Until lately, we found some advantages in our commercial relations with the possessions of the King of the Netherlands, by participating in the trade to the colony of Java; but now heavy discriminating duties are laid to confine all the advantages of that trade to Dutch vessels. Your memorialists do not notice this circumstance as requiring the application of any remedies within the purview of this memorial, but to show the progressive extension on the part of the European Powers of a system of absolute colonial monopoly, and to evince the necessity of devising means to counteract the growth of that system, by some vigorous effort on the part of our Government.

Louisiana was acquired by the United States in her colonial state, and the monopoly of her extended and growing trade would be more valuable than that of any two colonies whatever. And the Floridas, if they pass from their present abandoned and miserable condition to be integral parts of the Union, cannot fail, by the quickening influence of our free institutions, to open vast resources of trade, and may add to the list of our present exports even the articles of sugar and coffee, hitherto deemed exclusively colonial.

The liberal policy of the United States, in opening to all nations a free trade to the vast marts of their colonial acquisitions ought, it would seem, to entitle them to some corresponding privileges from those nations, at least, who participate largely in the benefits of that trade. But no such reciprocity has been experienced; nor, as the result of gratuitous concession, is it to be expected.

In reference to the oppressive discriminating du-

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ties on the importation of American products into France, which it is the principal object of the present memorial to bring under the notice of Government, your memorialists take leave most respectfully to suggest, that they can devise no expedient more likely to produce a favorable change in the present system of the French Government, nor better calculated to enable the citizens of the United States successfully to resist it, if persevered in, than the imposition of a heavy tonnage duty; and, at the same time, no measure appears to your memorialists so consistent with the general policy of the United States.

Referring to the statement already made, exhibiting the effects of the discriminating duties in France on cotton, tobacco, and potashes, considered as a tonnage duty on American vessels, your memorialists leave to the superior wisdom of Congress to determine, on a full consideration of all the circumstances connected with the case, what tonnage duty should now be imposed, so as to make this a fair and effective countervailing measure.

Your memorialists, considering, moreover, that some new provision is necessary in order to render beneficially operative the act of Congress which offers to foreign nations the means of commercial intercourse upon the principle of reciprocity, respectfully suggest that this duty should be made to apply to all nations which shall not adopt that principle.

A general regulation of this nature, whilst it would violate neither the letter nor spirit of our treaties with France, appears to be equally expedient in reference to other nations. Spain, for instance, besides imposing, as is believed, discriminating duties on the articles of our exports imported into the mother country, exacts most excessive extra duties on provisions imported by American vessels into her colonies. Among others, that on the article of flour amounts in Cuba to \$3 37½ per barrel. The regulations of trade in the ports of the Spanish colonies are such as not to place the intercourse with them under any of the restrictions contained in the navigation act; and thus, whilst this trade remains open to both nations, the discriminating duties imposed in those colonies must operate to transfer it altogether to Spanish vessels, as soon as their flag can navigate securely.

Your memorialists are persuaded that a measure like the one proposed could produce no injurious effects upon the agricultural and commercial interests of the United States, by abridging in foreign markets the sale of their produce. The prohibitory regulations of different Governments prove that the want of our provisions is the only security we now enjoy for their admission into foreign ports; and wherever this want exists they will continue to be received, direct, or by intermediate ports.

The principal articles exported to France are so essential to the supply of the manufactories that they cannot be dispensed with; so that, if a system of commercial regulations could be supposed to exist, operating to prevent a direct exportation of those articles to that country, its whole supplies of cotton and tobacco must be derived through

the circuitous channel of England, (as has been partially practised for the last two years,) or through some of the neighboring ports of the continent; and, in either case, we should at least partake in the advantages of their transportation across the Atlantic.

The right of the citizens of the United States to participate, on equal terms, in the advantages to be derived from their commercial intercourse with foreign nations, appears to your memorialists to be indisputable. And they appeal with confidence to Congress for such interference on their behalf as the public policy may justify. Although it may be questionable, in a case like the present, whether it would comport with the dignity of the nation to offer any considerations to foreign Powers in order to obtain a just reciprocity of commercial benefits, yet your memorialists take leave to suggest the expediency of holding out to France some further encouragements to the consumption in the United States of French wines and silk manufactures. Encouragements of this nature, if not required as an inducement to France to place the regulations of her trade with this country on a more equal and just footing, may possibly be used to obtain some relaxation to her colonial restrictions, and induce the repeal of the late order directed to the national tobacco manufactory in France, which restricts the employment of the foreign growth of that article to the proportion of one-sixth part for five-sixths parts of domestic growth.

It is true, in reference to the article of wines, (the duty on which is now sufficiently reduced,) the United States could, in the way of inducement to France, only assure to her the continuance of that reduction. But, in regard to silk manufactures, the imposition of additional duties on the same articles imported from China might be adopted as a measure of reciprocal advantage.

It would certainly be of great importance to France to check the immense importations from China of silk goods in imitation of French fabrics. And, considering the heavy drains of specie from the United States, which are caused by the prosecution of the trade to China, it would at least be equally advantageous to us to receive the same articles from countries where they can be obtained in exchange for our own products.

Your memorialists are anxious to maintain the national prosperity, and would discredit the unreasonable clamor of desponding and embarrassed traders; but the foreign commerce of this country, at the present period, is so rapidly declining, and its shipping interest so particularly depressed, that they feel themselves constrained to declare their firm conviction, that both must dwindle into comparative insignificance, unless the measures of foreign Governments, operating to deprive this country of an equitable participation in the benefits of its commercial intercourse with them, shall be promptly met and counteracted.

Under a deep impression that the prosperity of the nation is intimately connected with the prosperity of its commerce, and that the rising hopes of its future naval power are essentially depend-

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ent on the maintenance of its navigation, your memorialists have thought it a duty they owe to the community to submit these considerations to the wisdom of Congress; humbly praying that they will afford such relief in the premises as the nature of the case may require.

WM. BAYARD, *President.*

JOHN PINTARD, *Secretary.*

*Questions addressed by the Committee on Manufactures to the Mercantile Society of New York, with their answers.*

THE NEW TARIFF BILL.

You will recollect that the tenth section was stricken out, and the ninth so modified as to be unobjectionable.

Question 1st. State the items on which you think so high a duty was proposed as would lead to smuggling.

Answer. Smuggling cannot be carried to any extent except on our frontiers, and, generally speaking, there would be but little difference there, whether the duty was 15 or 40 per cent. Those who are most conversant with our revenue laws, know that the difficulties attending smuggling from on shipboard are so great that the gain would not justify the risk. European and Indian ships and cargoes are so valuable that, supposing character in no way affected, the owners would never jeopardize them for the sake of clandestinely introducing a small part; to thus introduce any considerable part would be impracticable, without the connivance of the officers of the customs.

Under the duties of 1815 and 1816, the whole amount smuggled from on shipboard in our commercial towns did not probably amount to a twentieth of one per cent. on the cargoes imported. Watches, jewelry, laces, and sewing silks, are the principal articles that are and would continue to be smuggled, because their bulk is so trifling that they are imported by passengers and others, and not entered on the manifest; therefore the vigilance of the officers cannot, in all cases, prevent their being landed without paying the duties. As such goods so introduced must almost necessarily be sold by auction, any saving in the duty might be met by an equivalent auction duty.

Question 2d. Enumerate those which you think would amount to a prohibition.

Answer. Article 5th will amount to a prohibition of all kinds of paper, except colored and stained paper and paper hangings; all kinds of hats, except Leghorn straw. It will probably ultimately amount to a prohibition of prunello and silk shoes, flint, cut, and window glass, slates, and tiles for building, common corks, salted fish, and inferior kinds of gunpowder.

Question 3d. Generally, would the rates of duty proposed diminish or increase the revenue? in other words, would the increased duties equal the diminished importation? If you think it would, state the items specifically.

Answer. The proposed tariff, if adopted, would, in our opinion, diminish the revenue. The articles enumerated in the answer to the 16th question

are all now recollected that will bear an increase of duty without injury to the revenue.

Question 4th. Are there any general provisions in this bill that would have an injurious effect on the revenue or on commerce? If so, specify them. This does not refer to the rate of duties.

Answer. In the 5th article of the tariff bill, "allowances or discounts" ought to be stricken out, as they throw insurmountable difficulties in the way of many descriptions of goods.

Question 5th. What is the cost of a British ship of, say 300 tons; what of an American of the same force and burden; and, generally, the difference in the price of shipping by the ton in each country, completely equipped?

Answer. A British ship of 300 tons, equipped for sea, will cost \$24,000, or \$80 per ton; an American ship, of the same quality, will cost \$18,000, or \$60 per ton.

Question 6th. The quantity of iron and cordage to the 100 tons of shipping?

Answer. It will require four tons of iron, 1,500 pounds of copper bolts, 4½ tons of cordage, and 20 bolts of duck, to the 100 tons.

Question 7th. Would the proposed increase of duty on iron, hemp, and cordage, have the effect of inducing the merchants to build their vessels abroad, or of giving foreign a preference over our own shipping?

Answer. As to American merchants building vessels in foreign countries, it is out of the question; for, by our navigation laws, American papers could not be obtained for them. Foreign vessels would not have a preference in our ports over American built vessels, unless at a reduction in freight of 25 per cent., or advantages equivalent, at the port of destination, as is now the case with French and other foreign vessels taking cargoes for France.

Question 8th. State the price of the following articles in 1811, or any other year or years before the war, which will present a fair average of their price in the years of a flourishing commerce: coarse cottons, umbrellas, nails, gunpowder, playing cards, carriages, cabinet wares, wafers, hats, &c., boots and shoes, and any other manufactured articles which were formerly imported, but are now in a great measure, if not wholly, made in the United States; the present prices of the same articles; the relative quality of the imported and domestic articles.

Answer. Common coarse cottons, such as are manufactured in the United States, may be fairly stated to be 50 per cent. lower than in 1811, and are much superior to the piece goods of similar description from Calcutta.

Cabinet wares are greatly superior, and full 25 per cent. lower.

Gunpowder, 25 to 50 per cent. lower.

Umbrellas, 33½ per cent. lower.

Carriages, 50 per cent. lower.

Hats, 25 per cent. lower.

Boots and shoes, 20 per cent. lower.

Silver ware is now made in this country as cheap as in London, and is 12½ per cent. lower than in 1811.

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Question 9th. Where the domestic has superseded the foreign supply of our market, state the general effect it has produced as to price and quality, and whether it has resulted in the benefit or injury of the consumer.

Answer. As far as our own information has given us an opportunity of judging, the consumer is supplied with a better article for the same price; it is particularly so with coarse cottons, hats, boots and shoes, cabinet wares, carriages, fancy chairs, looking-glass and picture frames, silver plate, audirons, brass head shovels and tongs, grates for burning coals, gold leaf, woollen sattinets, cut nails, fancy mock tortoise shell and fine ivory combs, rifle guns, cut tacks and brads, and tin wares.

Question 10th. Taking the article of cotton as an example, and supposing coarse cotton goods are excluded, have the effects been injurious to commerce? Is there as much tonnage, and are there as many seamen, employed in the transportation of the raw material and the manufactured article coastwise, as there would be in the importation of the foreign manufacture and the exportation of as much cotton as would make the goods we import from Europe? If more or less, state the difference.

Answer. The exportation of the raw material to Europe, and the importation of the article when manufactured, would give employment to a greater number of seamen, and more tons of shipping, than the transportation of the same raw materials and manufactured articles coastwise. So far as relates to a prohibition of India cottons, (manufactured,) our commerce has no doubt been benefited, because it could only be employed in bringing an article manufactured from a raw material of foreign growth; whereas, the raw material of which the substitute is made, as well as the manufactured article, are both transported coastwise, and give employment to more shipping, and a greater number of seamen, than the importation of India manufactured cottons could possibly do. It would take five cargoes of unmanufactured cotton to make one of manufactured goods.

Question 11th. Take a given number of tons of shipping, say 100,000, in the East India trade; what would be the number of seamen employed; what number would be employed in the European trade, the same number of tons; same in the West Indian; the same in the coasting trade?

Answer. Take 100,000 tons of shipping in the East India trade, the number of seamen employed would be one man to twenty tons, equal to 5,000 men; the same number of tons in the European trade, one man to twenty-three tons, equal to 4,347; in the West India trade, same number of tons, one man to twenty tons, equal to 5,000; in the coasting trade, same number of tons, one man to fifteen tons, equal to 6,666 men.

Question 12th. Does the consumption of cotton in the American manufactories diminish the price of what is exported to Europe; in other words, are or can the fruits of cotton manufactories be injurious to those who raise this article?

Answer. The consumption of cotton at home

increases the price to the growers. The demand in this market for home consumption is generally considered to keep the price from one to two cents per pound higher than it would otherwise be.

Question 13th. Generally speaking, do you think there would be as much employment for our shipping and seamen in the transportation of raw materials and manufactures coastwise as in their exportation and importation? This must be understood as applying generally to our articles of consumption.

Answer. The kind of foreign trade here named employs more tonnage, and probably more seamen, than the coasting trade would, in exchanging the same amount of articles.

Question 14th. Except cotton, how much tonnage is employed in the transportation to other countries of the raw material of the manufactures which we import?

Answer. We know of no raw material, of any magnitude, excepting cotton, the production of this country, which is exported, and returned in a manufactured state.

Question 15th. State your opinion of the probable operation of this bill on commerce; if injurious, point out, specifically, the objections. Would it decrease our tonnage or number of seamen? Would it diminish the price of any of our articles of export? If so, state of what. Is the price of these articles, and their demand abroad, regulated by the wants of other nations, or by the amount of manufactures we receive in exchange? State not only your opinion, but experience, and the information of others that is to be relied upon, if no general revision of the tariff should be proposed.

Answer. We think, generally, it will not be prejudicial to commerce; it would not diminish the value of any article of domestic produce exported; the price of our articles abroad, and the demand for them, is regulated by the wants of other nations, and not by what we in return receive for them.

Question 16th. State the articles on which an additional duty might be laid for the purposes of revenue, without injury to commerce, and the amount of such additional duty.

Answer. The following articles may be raised from their present rate of duty to that annexed to each article, for the purpose of revenue, and would not diminish the importation or consumption:

Linen goods to 25 per cent.

Silk goods manufactured in China and other places beyond the Cape of Good Hope, 35 per cent.

Silk goods from France and other places, except beyond the Cape of Good Hope, 25 per cent. All staple and fancy hardwares under 25 per cent. to be raised 25 per cent.

China and earthen wares, 35 per cent.

Ale and porter, in bottles or casks, 25 cents per gallon.

Almonds, 4 cents per pound.

Cassia, from China, 10 cents per pound.

Cocoa, 3 cents per pound.

Coffee, 6 cents per pound.

Cotton, 6 cents per pound.

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Hemp, \$2 per cwt.  
 Iron, in pigs, 75 cents per cwt.  
 Iron castings, \$1 50 per cwt.  
 Sewing silks and twists, of silk and worsted, \$1 50 per pound.

Nutmegs, 75 cents per pound.  
 Cigars, \$5 per thousand.  
 Linseed oil, 25 cents per gallon.  
 Blankets, 25 per cent.  
 Bombazetts and stuff goods, 25 per cent.  
 Worsteds and cotton hosiery, 25 per cent.  
 Buttons of all kinds, and moulds, 25 per cent.  
 Lace goods, 15 per cent.  
 Clocks and time-pieces, 35 per cent.

Question 17th. Have you any reason to believe, that from the 1st March, 1815, to the 1st July, 1816, there was more smuggling than at any former or subsequent period? If so, state them specifically.

Answer. It is not believed that smuggling of any consequence is carried on now, or was at any other period since the restrictive measures, and then the places were mostly confined to the eastern lines, and along the river St. Lawrence. From the 1st March, 1815, to 1st July, 1816, goods commanded a ready and profitable sale; therefore the inducement was less. The evils of the auction system can here be introduced with much propriety, as through that channel almost all the smuggled goods introduced during the restrictive measures were scattered. It was well understood at that time that the amount which was introduced and sold at auctions was for account of the smugglers; the facility to spread the goods prevents in a great degree the possibility of detection; the auctioneer is not bound to ascertain how the parties came by the property, whether stolen or otherwise.

Question 18th. State your opinion of the propriety of the following regulations: appraisers to examine each package imported; surveyor of the port to examine each package exported for drawback; whenever a manifest is required by the existing law to be verified before the American Consul at the place of exportation, all goods to be entered in a manifest of the place of export, (same as in the coasting trade,) to be verified before the American Consul, if any; if none, before the collector, or other officer having the superintendence of the customs.

Answer. Collectors should be instructed to designate particularly the packages to be sent to the public store from each invoice, for examination. It would be well if it were the surveyor's duty to examine every package exported for drawback.

Question 19th. What is the value of a full cargo of woollen and cotton goods assorted for our market; of silks and linens from Europe; of silks and nankeens from China; of cotton and muslin shawls from Calcutta; of glassware and crates from Europe?

Answer. This question can only be answered by application to the Secretary of the Treasury, or applying at the custom-house.

Question 20th. What number of vessels are employed in the direct trade with England (say American vessels) from the port of New York, and the usual number of seamen in each?

Answer. We refer you to the Secretary of the Treasury; we are unable to answer it.

## CASH PAYMENT BILL.

Question 1st. Should there be any reduction of the present credits?

Answer. Yes.

Question 2d. If any, state what. Examine the bill of last session. There are three parts to this bill.

1. The abolition of credits on deposit, for six months, on some articles, and diminishing them on others.

2. New system of drawbacks.

3. The deposit, till payment of duties.

Point out the alterations under each item.

Question 3d. What, in your opinion, will be the effect of such a system as is proposed by this bill on the general commerce of this country?

Question 4th. How will it affect the commerce in the hands of the American merchant?

Answer to 2d, 3d, and 4th questions. A reduction of credits on goods to three and six months, with increased caution in taking the bonds at the custom-house, would have on the general interests of the country a beneficial effect; we believe that it would be productive of much benefit to the Treasury, and likewise to the mercantile concerns of the country, and not injurious to the interests of any class of citizens, not even excepting those who are the immediate objects of the munificence of Government. The reduction of credits would tend greatly to discourage importations on foreign account, and give the command of the American markets to our own citizens, and it would also tend greatly to check speculations.

Question 5th. Can any auction bill be efficient with the present credits? What is, in your opinion, the difference between the expenses of an American merchant resident in New York, who sells \$100,000 a year, and a foreign consignor who ships them to an agent in New York, say an auctioneer?

Answer. A duty of ten per cent. on sales at auction would be efficient, without any alteration in credits; but should an alteration be made by reducing the credits, the effect of that act, without the duty on auction sales, would be offering a premium or bounty on the capital of the auctioneer, and thereby add to the existing evil. After carefully estimating the difference in the expenses attending the sale of \$100,000 made by an auctioneer for account of a foreign consignor, and the same amount sold by an American merchant at private sale, our opinion is, that the foreign consignor has the advantage over the American merchant from  $7\frac{1}{2}$  to 10 per cent.

Question 6th. What is the average difference in the quality of consigned and order goods? What difference in measurement?

Answer. The difference in quality of goods consigned or ordered for auction, and those ordered by the regular merchant of character, taking the difference of quality and measurement into estimation, a less sum than  $7\frac{1}{2}$  to 10 per cent. cannot be named; it is often much more than that.

*Protection to Manufactures.*

Question 7th. If you think the bill of last session goes too far, what would you say to the old credits of the year 1790?

West Indies, four months.

Madeira wine, twelve months.

Teas from China, twelve months.

All other, six months.

Answer. As it respects the payment in cash for the greater part of the duties, there exists a great variety of opinions; many are for cash payments, many for reducing the credits, and many for their remaining as they now are. Our opinion is, that cash payments would be inexpedient, as an entire new system in drawbacks and collection of the duties must be adopted, which would create great difficulty, and would be extremely embarrassing to the merchant. By shortening the credits, the present system of collecting might be continued, and the effect would be that Government would lose nothing compared with what they have lost by the long credits now given. It would have the further effect of reducing the general and pernicious system of long credits among merchants, which all practical commercial men admit to be necessary, to place business upon a sure and solid basis.

We see no propriety in making a distinction in credits on goods from different countries. Why should the merchant engaged in the East India trade, who is the overgrown capitalist, have the extended credit of twelve months on his duties, the amount of which on one cargo furnishes nearly a sufficient capital for completing another voyage, before his bonds are payable? His goods imported are generally of the most ready sale, and considered almost a circulating medium; his sales are through the auctioneer, for cash or approved paper, which he anticipates without any difficulty.

Madeira wines are mostly imported by our wealthy merchants.

We therefore recommend that the credits on duties be reduced to three and six months from every quarter of the world.

Question 8th. Would a diminution of credits tend to throw too great a proportion of our foreign commerce into the hands of capitalists? Discriminate under the following heads the kind of trade which is carried on by men of small and large capital:

Importations from the East Indies; importations from Europe; importations from the West Indies.

State the average value of a cargo from Canton, of silks, teas, nankeens, china, &c.; from Calcutta, of piece goods, &c.; from East Indies, of mounds of pepper, spices, sugar, coffee, &c.; from West Indies, of rum, sugar, coffee, molasses, pimento, and fruit; from Spanish main, of wood, dye-stuffs, hides, &c.; from Europe, an average cargo from England, from France, from the Straits and Levant, and from other parts of the continent of Europe.

Of the above cargoes, which sell at the shortest credit?

Which branch of the above trade would be most affected by prompt payment of duties?

Which have afforded the greatest and most certain profits?

Which is carried on most by credit in proportion to the amount of importation—European, East or West Indian?

By *credit* is meant not only purchases abroad on credit, but loans or other credit at home.

Answer. In the present state of commerce, and the abundance of money in almost every seaport town of consequence in the country, we believe that the effect of shortening the credit on duties would by no means tend to give large capitalists an extraordinary advantage over those of smaller capital, or more than they now enjoy; and the reason is very obvious: security must be given for the payment of the duties, and upon the same security, the money might with equal facility be realized from the banks or individuals. Those engaged in the East India and China trade are generally considered the greatest capitalists. They would be most affected by shortening the credit on duties, because their credits for duties are longer than on importations from any other part of the globe, and the duties bear a greater proportion to the actual cost of the goods than from any other quarter.

Importations from Europe, especially what little has been done of late on American account, is not confined to large capitalists, and those from the West Indies are mostly on consignment for foreign account; the productions from the latter are sold on the shortest credit.

The other inquiries can only be answered from official documents and records of the custom-house.

## AUCTION BILL.

Question 1st. What alterations would be proper in the auction bill, as reported last Winter? Examine them in detail.

Answer. An alteration would be proper requiring auctioneers to pay the same duty on all the private sales as on the public sales which they may effect, as they are now by law compelled to do in the State of New York.

Question 2d. Would you recommend the same duty on domestic as on foreign articles of manufacture?

Answer. It is deemed of great importance that the duty should be the same on domestic as on foreign articles.

Question 3d. Should there be a discrimination in the duty on manufactured goods, and on what are generally called groceries, as sugar, tea, coffee, spirits, wine, and drugs?

Answer. There should be no difference between the duty on groceries and other goods sold at auction.

Question 4th. Amount of auction sales at New York?

Answer. The proportion of goods sold by auction in 1820 was greater than in any previous year. The amount of those sales, owing to the low prices of goods, may be less than in some previous years; it cannot be ascertained till the annual return of the Comptroller of the State is made, in February.

*Objections to an increase of Duties.*

Question 5th. Importations on foreign account, for 1820, compared with those on American?

Answer. From information and inquiries, which are deemed satisfactory, from two-thirds to three-fourths of the whole quantity of goods imported in 1820 from Europe and the West Indies were imported on foreign account. From England, Scotland, and Ireland, there were imported of dry goods 23,606 packages—

Which were on domestic account - - -	4,932
On foreign account - - - - -	18,674
Total - - - - -	<u>23,606</u>

### OBJECTIONS TO AN INCREASE OF DUTIES ON IMPORTS.

[Communicated to the House, February 2, 1821.]

Mr. FORREST, from the Committee on Agriculture, to whom was referred the memorial of the delegates of the United Agricultural Societies of Prince George, Sussex, Surry, Petersburg, Brunswick, Dinwiddie, and Isle of Wight, having had the same under consideration, made the following report:

The committee consider it a duty which they owe to the object of their institution, to the importance of the subjects referred to in the memorial, to the character of the memorialists themselves, and to the threatened interests of agriculture, to present a full, candid, and impartial statement of the views which they entertain of the policy of increasing the duties established by the present tariff.

Believing, as they do, that the agriculturists, as the most numerous portion of the community, are more deeply interested than any other class in the decision of this question, and that they must necessarily continue to be so for many ages to come, they conceive that no apology will be required if they enter somewhat at length into the investigation of those principles which the policy involves. Nor will such a course be deemed incompatible with the object for which the committee was originally created, which they suppose was not so much to devise and propose plans for the positive encouragement of agriculture, as, by a vigilant exercise of their functions, to guard its political interests from encroachment.

The committee regard the question presented by the proposed tariff as one of the most important that has ever been offered to the consideration of Congress. Important, however, as this question is, when considered in reference to the change which any further restrictions on trade must produce in our foreign relations, it is yet more important when viewed in reference to those which it would effect in the subsisting relations of the several classes of the community; for, even if the favorable though impracticable and useless object of the friends of the restrictive system could be realized—that of raising the prices of all commodities, al-

though it would then no longer be a question as to the degree of intercourse we should maintain with other countries, but there would be no intercourse at all—for commerce never goes in quest of dear commodities—and the sources of wealth, intelligence, and improvement, derivable from an intercourse with the rest of the world, would be entirely destroyed; yet this evil, great as it is, would be inconsiderable in comparison with those which the system would produce on our domestic prosperity and happiness; in other words, its financial would be less injurious than its political consequences.

There are obviously two leading points of view in which this, as well as other restrictive systems, may be considered—its effect to increase or diminish the national wealth, and its tendency to promote independence and happiness. These views, though necessarily, in some degree, blended with each other, are, in many important particulars, distinct. But, before the committee enter into an examination of the system, they will notice briefly some of the arguments which have been employed to recommend it, which they believe have only an incidental and collateral connexion with the subject, but which have been so much relied on by the advocates of the system that they cannot with propriety be overlooked.

Among the most prominent of these is the argument derived from the productive power of manufacturing in comparison with agricultural and commercial industry, and the inducements which the quick returns of the hometrade, the relative increase of population in Europe and America, the local advantages we possess, in having at our command all the chief materials for manufacturing, the obstacles which the restrictions other nations oppose to an intercourse with them, and many other propitious circumstances, hold out to the capitalist to embark in manufactures. It will not now be attempted to claim any pre-eminence for agriculture and commerce over manufactures, or for one kind of trade over another. The latest and most judicious speculations on this subject tend to show that if there be any difference at all, it is much less than has been imagined; but it will merely be observed that all those arguments which go to show the favorable circumstances under which manufactures may be commenced, and the disadvantages under which they must be procured from abroad, so far from being auxiliary to the system, tend directly to impeach it; for the question is, not the desirableness of manufactures, but the expediency and legality of the means of promoting them; whether, in order to establish them, we must not part with something still more desirable. Now, all those arguments which go to prove that we can do without the aid of the law, are arguments against the interference of law. If the times and circumstances have a natural tendency to promote the objects desired, why should we seek to obtain them prematurely, and by oppressive means? Such arguments are undoubtedly proper when employed to persuade the capitalist voluntarily to engage in manufactures; but they are absolutely preposterous when used to induce the

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Government to assist him, by taxing the rest of the community.

Another argument has been founded on the necessity or propriety of giving relief to those manufacturers who were induced, by the state of things growing out of the late war and the measures that preceded it, to vest their capital in manufactures, and who, it is alleged, have suffered since the return of peace for want of sufficient protection. This claim is not considered as well founded, because it is derived from the asseverations of the manufacturers themselves that those persons were generally compelled, in consequence of their heavy losses, to sell out their establishments, at a considerable sacrifice, so that their present proprietors must now hold them under extremely advantageous circumstances, and the proposed relief would not reach its intended objects. But, independently of this, the principle itself is too capacious to be admissible. It amounts to this: the Government is bound to indemnify its citizens for all losses that can be remotely connected with its necessary acts, though they have been produced chiefly by their own voluntary agency. Such a principle would furnish just as good a claim for relief to the farmer and merchant as to the manufacturer. The diminished price of agricultural produce during the war would be as good a reason for relieving the agriculturist, as the diminished price of manufactured produce on the return of peace would be for relieving the manufacturer. Even, therefore, if it could be made to appear that an improvident spirit of speculation had no share in producing the distress of the manufacturers, that the other classes of the community did not equally participate in them, and that relief would reach the true sufferers, it would be inexpedient to grant it, to say nothing at this time of the right of the Government thus to relieve one class by taking the means from another.

An argument which is not deemed by the committee as material in the investigation of this question, but which has been perhaps more universally relied on than almost any other, is this: that it is admitted that the system of free trade would be the best, provided other nations would pursue it; but it is said, if they will not buy of us, so neither should we buy of them, but should meet regulation by regulation, restriction by restriction. It is difficult to say whether this argument is addressed to our interest or to our honor, or whether it is addressed to either; for it is neither proposed, by the adoption of the restrictive system; on our part, to compel foreign nations to abandon it, nor is it proposed to retaliate their injuries, with a view of punishing them for their alleged offence. Indeed, so far from its being contemplated by the manufacturers to coerce other nations to relinquish their restrictions, it can scarcely be doubted that such an event would occasion great regret, because it would take away one of the principal arguments on which they have relied for the adoption of their policy, whilst other considerations which recommend it to them would remain. But in whatever the advice "not to buy of foreigners unless they will buy of us" may have originated, it is evidently worse than useless. How is it pos-

sible that we should buy of them unless they buy of us? The very word "buy," implies that something is given in exchange for that which is received; and what is giving in exchange but "buying?" That foreigners do not admit our products on the same terms that we admit theirs, does not render it less true, that in our intercourse with them there is a complete exchange of equivalents. Undoubtedly the foreign system is injurious to us, and it is certainly not less so to themselves. Every retaliatory measure on either side injures both, unless it has the effect of making the other party recede, and even then the injury suffered by the retaliating party is not necessarily counterbalanced by the good received; but to adopt restrictions with any other view than to force other nations to abandon them, is a course for which no apology can be offered. As long as capital continues to be employed in the foreign trade, it can only be because it is more profitably employed than it could be if it were withdrawn. It would be very unwise, because a portion of our capital is not so advantageously employed as it might be under possible circumstances, to make it less so than it is; because we cannot make things better, to make them worse. Besides, the refusal of foreigners to receive our raw produce is to the injury of the agriculturist, not of the manufacturer. The object of the system, therefore, should be to redress the grievances of the former, not those of the latter. But the agriculturist declares that he does not ask the assistance of the Government; that all he requires is to be let alone; and that it is absolutely unjust to make an actual grievance the pretext for imposing on him additional burdens. There appears to be less excuse for this system on the score of honor than on that of interest; yet the appeal to honor is one of the favorite topics of the friends of restriction. National honor is too often made to usurp the empire of reason and justice, and to decide controversies where it has no jurisdiction; and on no occasion have its just prerogatives been more prostituted and abused than when it has been made to extend over the province of trade and commerce, which, though they should always be guided by individual honor, and indeed can only be sustained by a strict adherence to its principles, renounce all other authority but that of interest in questions of their extent or direction. When the honor of the nation is really involved, the agriculturists will be among the last to abandon it. National, like individual honor, is not averse to interest, but is identified with it. National, like individual honor, is reputation, and reputation is power; it is safety in peace and strength in war. But when the honor of an individual or a nation is assailed, it is by the violation of some indisputable right which authorizes the assailed party to demand redress, and if it is not rendered to punish the assailant. But can it be pretended that any indisputable right of this nation would be violated by the refusal of foreigners to receive our surplus produce? Is it not the undoubted right of every nation to adopt whatever municipal regulations it believes necessary for its own internal administration? As well might it



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be said that an individual would compromise his honor by agreeing to purchase an article of his neighbor, because this neighbor refused to receive that which he produced in return, but required him first to commute it into money. Honor has nothing to do with this matter; it is regulated, as it ought to be, solely by convenience. But it must be again repeated that it is incorrect, in point of fact, to say that foreigners do not purchase of us to the same extent that we purchase of them, because it is impossible. "There can be no buying without an equal selling." If we have had occasionally to pay them a balance in money, it is no more than they have often had to do to us; and if it always happened that we had to pay some nations a balance in money, it would not alter the case; for, before we can purchase the products of any nation with money, we must previously have purchased that money of other nations with our products. Our most invaluable trade with the East Indies is entirely carried on with money.

Another argument has been founded on the encouragement which it is alleged has been given by Congress to agriculture and commerce, and which, it is urged, affords an equitable claim for encouragement to manufactures. It will hardly be asserted that agriculture and commerce have received greater aids from Government than manufactures. With respect to agriculture, it is not admitted that Government has rendered it any service whatever; and it is moreover believed that it cannot render it any service, unless it be to remove the restrictions which oppress it. With regard to commerce, it is alleged that it has been encouraged in two ways—by a navy, and by a system of commercial regulations. It is apprehended that the true and legitimate purpose of a navy is the national defence; but if the navy can be considered, in any degree, as intended to protect commerce, it is evidently intended to protect it, not against competition, but against violence; and there can be no doubt that the navy, and the army too, would be employed to protect manufactures, if they were assailed by violence. Even in this point of view, it is not believed to be the true policy of this nation to create an immense overgrown navy for the protection of our commerce in distant seas, but to confine it to such limits, when it shall be deemed to have attained them, as is compatible with the national defence. Whether those regulations and acts were intended to encourage the commerce and navigation of the country involve a departure from the maxims of letting things alone, and of not taxing one class for the support of another, the committee are not called on now to decide; but, passing over the argument for the navigation laws, that they were intended to be subservient to national defence, by creating a nursery for our seamen, and regarding them purely as commercial regulations, the encouragement they are designed to afford to commerce and navigation differs, both in nature and degree, from that which has been already given, and which it is proposed still further to extend to manufactures. A nation adopting a restrictive system, with a view of coercing another nation to abandon it, is very differ-

ent from its adopting it as a permanent part of its policy, under the delusive idea of promoting national wealth and independence. It proposes only to forego present for the sake of future and greater advantages. Undoubtedly, even in this case, it should be certain that the means selected will insure success; that success will pay for the sacrifices made to obtain it; and that it can be obtained in no better way. How far the navigation laws will fulfil these conditions, time will fully decide.

It has also been urged, that when a nation has peculiar advantages for particular manufactures, and is ripe for them in every respect but that of skill, the Government should afford such protection as will procure that skill. The propriety of the proposed tariff does not depend on the truth of this position; for, in the production of many of the articles on which it is proposed to increase the duties, we already equal other nations in skill, and, in others, the duties are more than sufficient to obtain it. But, it is asked, where is the propriety of the distinction which would make the nation pay for a deficiency in skill more than in any thing else? The only ground on which any one would think of justifying the policy which would make either an individual or a nation the purchaser of this skill, or of any other requisite, would be, that the temporary loss occasioned by the purchase would be repaid when it was completely acquired. But does this prove that the nation should be the purchaser? Is it not more consistent with justice that the capitalist, who is to derive the benefit of the acquisition, should make the sacrifices necessary to obtain it? If his capital is insufficient, the nation might as well be expected to supply that, as to supply the skill it employs.

The foregoing are some of the principal arguments which have been resorted to in support of the manufacturing system, and which the committee think have little to do with the real merits of the question. It is not a complete enumeration of all of that description, and it is hoped that no excuse is necessary for not attempting to achieve such an enumeration. They therefore approach, with satisfaction, what they consider as the true question involved in the proposed alteration of the tariff; namely, will the national wealth be augmented or diminished; and, if it will be diminished, are there any advantages which will compensate for the sacrifice? And they will undertake to show, not only that the necessary effect of such an alteration is to diminish, both immediately and ultimately, the national wealth, but that, so far from there being any compensatory circumstances, it is even more objectionable in other points of view than as a question of loss or gain; and that the distribution of the wealth of the nation which it will effect will be more injurious than the diminution.

The committee have endeavored to divest the subject of all extraneous considerations, with a view of giving to their arguments a greater degree of precision; and they conceive that, if the positions they have assumed can be clearly established, by a fair deduction from the most indisputable principles, they will save themselves the necessity

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of replying in detail to a multiplicity of irrelevant arguments which have been employed in defence of the restrictive system.

The first view of the subject, that which relates to the national wealth, presents a question strictly of political economy. The second, that connected with our independence and happiness, is partly a question of political economy, and partly one of general policy. The committee will not, at the expense of precision and force, encumber their arguments with numerous statistical facts and arithmetical calculations. Such calculations often have a tendency to mislead instead of to instruct; and the facts which are best established have, after all, to be explained by the application of general principles. It is pre-eminently the case in the controversy between the manufacturers and their opponents, that the *data* which they have respectively relied on for the support of their opinions have always been considered, by the opposite party, either as proving nothing, or as proving directly the reverse of what was intended. This can only be accounted for by the supposition, that the general principles of one or the other party, which they apply to the explanation of these *data*, are erroneous. It will be attempted to show that the principles on which the restrictive system is opposed are not liable to this charge; and that the soundest and most incontrovertible maxims of political economy—maxims derived from the impartial observation of facts, from accurate analysis, and from long and diversified experience—warrant this opposition in its greatest extent. They are aware that those who appeal to general principles render themselves liable to the charge of theory, by those who lay claim to exclusive practical knowledge; and, as there has been a good deal of unmeaning declamation against the opponents of the manufacturing system on this common-place, they will very briefly examine its justice. Theory is not the opposite of experience, for it may be strictly deduced from experience. It is nothing more than a system of general rules, founded on the observation of particular facts, or it is such a system founded on hypothesis. In the one case it is true—in the other it is generally false. But this character of truth or falsehood is not peculiar to theory; it belongs equally to practice. Practice may be true or false; that is, it may be sound or unsound, good or bad; but all good practice must be founded on true theory. It is not enough, then, to say that an opinion or a system is a theory; it must be proved that it is a false theory; that it is not the rigorous result of an attentive examination of facts. And, in attempting to prove it, it will not suffice to oppose to it a single repugnant fact or doubtful experiment, or even many such facts and experiments, without showing in what respects they are incompatible with the theory—where the error lies—in what its falsehood consists. The committee must, however, be permitted to observe, that the charge of theory comes with but little propriety from the manufacturers. Their notions of a home market, balance of trade, national industry, and their doctrines generally, involve theories which are not only not

founded in facts, or even plausible hypothesis, but are in direct opposition to all experience. But to come at once to the subject.

The first position that it will be attempted to prove is, that the necessary effect of an increase of duties is to diminish, both immediately and ultimately, the amount of national wealth. The loss, however, of the nation, the loss of those who pay the duties, and the gain of those who receive them, do not always correspond, but vary with particular circumstances. In what manner this loss and gain are distributed in society will be best illustrated by an example. If, for instance, a community of four persons were engaged in an occupation which enabled them to realize six per cent. on equal capitals, and three of them were to give the fourth one per cent., or one-third of one per cent. each, to enable him to carry on an employment in which, unassisted, he could only make five per cent., it is evident that the loss of the contributors would be one per cent., and that it would be exactly the loss of the community, whilst the gain of the receiver would be nothing; and unless that part of his profits which he received from the others was as productively employed as it was by them, he might be a loser, and thus still further augment the loss of the community. But this is a case that would not be apt to occur. The fourth individual must have something more than six per cent., which he already made, to induce him to abandon his old occupation, and pursue a new one—say seven per cent. In this case, the others would have to pay his two-thirds of one per cent. each. It is obvious, now, that the loss of the contributors would be two per cent., that the gain of the receiver would be one per cent., and that it would correspond with the loss of the community, which would also be one per cent., or the difference between the productive value of his old and new employment. If this bounty were given to induce an individual to continue an occupation in which he was already engaged, then, although the contributor would lose all he paid, and the receiver would gain it, the community would lose nothing, as there would only be a transfer of wealth from one to another. This, however, would not be the case with a manufacture thus continued by a bounty. There would be an immediate loss, occasioned by the increased cost of consumption; nor would it be possible to make one employment so much more profitable than another, without its attracting capital from that other; and this would be the source of innumerable other losses, hereafter to be noticed. In the case that has been stated, it is clear that the loss of the contributors is exactly what they pay; the gain of the receiver is their loss, less the difference between the productive value of his old and new employment, and the loss of the community is precisely this difference. In manufactures, such would be the operation of a duty that was prohibitory; a duty that was merely protective would permit a portion of the commodities consumed to be bought of foreigners, and thus a part of it would go into the treasury. This would not vary the proportion of the loss and gain of the contributors and receivers, but would, in

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some degree, increase the loss of the community, as composed of both, as this portion of the duty would be less productively employed by the Government than it would have been had it remained in the hands of either of the parties. This does not prove that prohibitory are better than protecting duties. There are other consequences which make duties injurious in proportion to their amount. All these observations may be applied (*mutatis mutandis*) to the consumers, the manufacturers, and the nation, under the protecting-duty system. Two descriptions of persons would derive the benefit; a few who continue their old employment, and a great many who engage in new ones. In both cases, the loss of the consumer is what he pays, and is unredeemed by any circumstances whatever. In the first case, the loss of the nation arises from the increased cost of consumption; in the second, it arises from this cause, and the diminished productive value of the new employments of society. In the first case, the gain of the manufacturer is the loss of the consumer, less the increased cost of his own consumption; in the second, it is this loss diminished by the same cause, and the diminished productive value of his labor. But, besides these direct losses, there are others indirect and collateral, which are, however, not less inevitable; losses which affect the consumers, and, in some degree, ultimately reach the manufacturers themselves.

Whenever one employment becomes more profitable than another, capital will desert the less for the more profitable. Every such change, however, is attended with the loss, generally, of the whole of the fixed, and a portion of the circulating, capital of the deserted occupation. But it is easy to perceive that a duty on a single article may occasion the loss of several such capitals. If, for example, by a duty on foreign boots and shoes, we prevent a certain quantity from being brought into the country, we immediately destroy the market for the commodities which were given in exchange for them; and if this is a manufactured article, we then destroy the market for the agricultural product, which constitutes its basis; so that the loss falls ultimately on agriculture. Now, if the agriculturists who are thus thrown out of employment become boot and shoemakers, there would be the loss of only one capital; but if, as is more probable, they should apply themselves to some other branch of agricultural industry, as being more analogous to their recent occupation, and, for the same reason, the additional boots and shoes required were made by labor and capital taken from the saddle and harness business, there would be the loss of two capitals. It is not difficult to perceive that the loss might be extended to a greater number. Perhaps it may be said that this loss would be repaired by the superior profits of the new employment; but this would not be the case. The new employments, except those which were the objects of the bounty, would be less profitable than the old ones. If they were equally so, there would still be the loss of the whole of the fixed capital, which would be entirely sunk. The committee have already noticed that cause of loss

which arises from a diminution of skill, and the other facilities of production. This great and inevitable source of loss is embraced in what has been said of the diminished productive powers of the new employments of the community. They have also noticed that source of loss which arises from the unproductive employment of that portion of the duty which is paid into the treasury, and which, if it remained in the hands of individuals, would be devoted to reproduction, and augment the national wealth. As, however, we must have revenue, this loss is only to be objected to when duties are excessive. But there is another source of loss in the constant tendency of the system to diminish production, and, of course, accumulation. The increased cost of consumption, however, which is one of the means by which this effect is produced, will affect chiefly the laboring classes and the raisers of raw produce. Every thing on which the wages of labor are expended, except the products of agriculture, will rise in price; but labor itself cannot rise, and may fall, for the demand for labor created by the new employments will be more than supplied by that thrown out of the old ones; and thus the comforts of the laborer, who will have to purchase dearer articles with smaller means, will be materially impaired. It is thought, too, that the value of money must be proportionally higher in a country which pursues this system; and this is another circumstance which must injuriously affect the wages of labor. In the infancy of manufactures, too, the coarser kinds being first produced, the tax is chiefly borne by the poor who consume them. This evil is increased, too, by the manner in which the duties are adjusted on the finer and coarser manufactures; for, in the present, as well as in the proposed tariff, the duties are much higher on the latter than on the former. On coarse and on fine cottons, for example, there is a difference of not less than twenty-three or twenty-five per cent. in favor of the latter; on common glass tumblers, and on cut glass tumblers and decanters, a difference of from 27 to 39 per cent. in favor of the cut glass. The duty on molasses and on brown sugar, if the proposed tariff is adopted, will be about 100 per cent. on the cost; on salt 120 per cent., and on many other articles, consumed chiefly by the poor, the duties will be oppressively heavy. It has been estimated, by a very intelligent writer, that the duties which would be paid under this new tariff, by the great body of the people, would not average less than 75 per cent. on articles of necessity; whilst the duties on articles of luxury, used by the rich, would not amount to more than 30 per cent. To tax the poor for the benefit of the poor would be bad enough; but to tax them for the benefit of the rich is intolerable. This oppressive operation of the system on the poorer and laboring class is one of its least pleasing effects, and, when we consider their relative number to the capitalists, it is one of the most alarming; for, independently of its political consequences, nothing can be more unfavorable to accumulation than inequality of wealth. There is always proportionally less of the income of the

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wealthy devoted to reproduction, because there is more of it expended on factitious wants; on those luxuries which have, besides the pernicious effect of producing imitation on the part of the poor, and of bringing in their train the extravagant expenditure of the Government, which, it is well known, when it once begins, never stops.

Diminished consumption must necessarily diminish production; but it is diminished in another way, and that is by the decreased price of agricultural produce. This effect of the system is inevitable; yet, strange to tell, the increased price of agricultural produce has been one of those delusive promises made use of to recommend it; and, still stranger to tell, one that a great many have believed in. The home market has been talked of, and its mysterious virtues have been highly extolled, though no one has shown the fashion of operating of this wonder-working agent. The following considerations, it is believed, will show how completely fallacious are the expectations of any benefit from such a source. If the price of commodities is regulated by the relations of supply and demand, (and their market price undoubtedly is,) then, provided the number of consumers in the country remain the same after the adoption of the system as before, inasmuch as we shall be deprived of the foreign market to the same extent that we cease to purchase, (for foreigners cannot buy of us unless we buy of them,) the relation of the supply to the demand must be increased; consequently, there can be no rise of price, but there must be a fall. But we are told that foreigners are to be attracted hither by this system. Although it can scarcely be imagined, in any event, that as many would be attracted hither as we supply abroad, let us admit that this might be the case; then the relation of supply and demand would be unaltered, and consequently prices cannot rise, but must remain stationary. The only conceivable mode by which the relation of supply and demand could be altered, would be by a portion of the persons who were employed in agriculture leaving it to engage in manufactures. It might readily be conceded that, if the same quantity of manufactures could be consumed in the country after the adoption of the system as was consumed before, as, from diminished skill, a greater number of hands would be required to produce them, the consumers of agricultural produce would be multiplied; but we have already seen that this could not be the case, because the cost of consumption would be vastly increased, and the means diminished. But the committee deny, distinctly, that any such change in the relation of supply and demand could be produced by an increase of duties; or, if it could, that those duties could have the effect to raise the price of one kind of agricultural produce but at the expense of another, or to raise the price of any kind permanently at all. Suppose, for instance, a duty is laid on the raw cotton of other countries; it is evident that, if it has the effect to diminish the quantity imported, it must destroy the market for the commodities with which it was purchased. Let us admit that its immediate effect would be

to enhance the price of raw and of manufactured cotton, (and if it would, it must be enhanced to all its consumers; to the manufacturer himself, so far as he is a consumer, and even to the planter, who is, however, made to pay back on the fabric what the manufacturer advanced on the raw article, the market price of commodities is increased by increased demand or diminished supply; their natural price can only be increased in consequence of its becoming necessary to bestow on them an additional quantity of labor. Now, it is evident that, in a country where lands of the first quality are not all in cultivation, the additional quantity required to satisfy the demand would be produced almost immediately, and that the price could not be permanently increased; and, if it were increased, it must be observed, that it would be at the expense of that agricultural product which has been displaced. It would be produced, too, without the necessity of resorting to poorer lands, so that the cost of production remaining the same, there would be no increase of its natural price. Indeed, is it not obvious that, if labor is made to leave agriculture for manufactures, the poorest lands will be deserted first, and that the cost of production, therefore, instead of being increased, would be lessened? This, perhaps, might be an advantage, provided the labor and capital taken from agriculture were, independently of the bounties they receive, as productively employed as they were before; but this, it has already been shown, would not be the case. Even if the products of that labor and capital, in consequence of the bounties paid on them, and the increased cost of consumption, had a greater exchangeable value, it is not the exchangeable value of the products of a country which constitutes its wealth, but their quantity and utility. But, even if it were admitted that poorer lands would have to be resorted to in order to produce the additional supply, it is maintained that, with respect to those commodities that go abroad in the great marts of the world, and there come into competition with similar commodities of other countries, it is not the cost of production here, but in that country where they are produced with the greatest quantity of labor, that regulates their natural price. It will no doubt be said, if such is the effect of competition to reduce the price of agricultural products, why will it not reduce the price of manufactured produce? For this obvious reason: that the field of production is limited in the one, and is unlimited in the other; that the cost of production cannot be increased in the one, and may be vastly increased in the other. As the expectation that domestic manufactures will be reduced, by competition, to an equality of price with foreign manufactures, has been held out to allay our apprehensions of this system, it may not be improper to examine on what it is founded. It is denied that competition can produce a permanent diminution of price. It may undoubtedly reduce the market price for a time, but it cannot reduce the natural price; and the former cannot permanently remain below the latter. Competition may produce a glut in the market, and thus bring prices so low

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as not to repay the expense of production; but it is evident that this state of things must be temporary; there must be some profit, or the business cannot be carried on. It is the increased facility in producing an article which alone can diminish the price. Domestic will never be sold lower than foreign manufactures until we equal foreigners in skill, and in all those circumstances which enter into the cost of production. When we equal them in these respects, (as we probably will after a long series of years,) we may, indeed, then undersell them, by the difference in the cost of transportation. But what shall we gain by this? It will not even pay for the destruction of the capital employed in the transportation; never will it compensate for that waste of income and of capital, and the other incalculable losses which will ensue from the system. The whole of this reasoning will doubtless be controverted by the declaration of the fact that cotton goods are now lower in this country than they were before the present tariff was adopted. Here, as in many instances, we agree in the fact, but differ in the principles by which it must be explained. The manufacturers ascribe it to competition; their opponents ascribe it to the fall in the price of the raw material and of labor, to greater facility in production, and to the general stagnation of trade; and this reasoning is corroborated by the fact that the fall in this article has been general all over the world. Still, the ratio of the fall in this country and in England being about the same, and the duty nearly or quite prohibitory, English cottons can not be imported. If the duty was taken off, or even considerably diminished, we should undoubtedly see that coarse cottons would be still lower than they are at this time. As to the assertion that the price of raw cotton in this country is kept up one or two cents higher in consequence of the competition of the American with the English manufacturers, it is totally gratuitous. It is utterly useless to talk of underselling foreigners until we can produce the article at less cost; the thing is impossible. Nor is it desirable that we should ever undersell foreign manufacturers; for, in order to do so, we must not only equal them in skill, machinery, ingenuity, industry, &c., but we must equal them in human degradation and wretchedness. We must drive our laborers from the fields, from the beauties and bounties of nature, to those dismal and demoralizing abodes, where they sink into hopeless stupidity and penury, or where want goads ingenuity to reluctant exertion for a scanty subsistence, and where the health and morals frequently become victims to hard and untimely labor, and the imperious laws of poverty and hunger.

Another source of loss is in the tendency of this system to drive commercial capital abroad, and this it will much more probably do than attract manufacturing capital hither, as well from the superior facility of its removal, as from the distrust which the system is calculated to produce in the equity of the Government and stability of its policy; to which, perhaps, may be added the inducements afforded by the vast fields of industry which

the enlightened policy of other nations will probably, at no very distant period, open to commercial enterprise. It is believed that the prevalence of sound principles of political economy, and the light of returning reason, have produced a disposition in all the commercial nations of the world to restore the system of free trade, and that they are only prevented from returning to it at once by the consideration that the sudden abandonment of a system so interwoven with all the interests of society must necessarily be productive of great immediate mischief; a consideration which should teach us the propriety of serious deliberation before we adopt it—the more particularly so, as the expediency of making it permanent is made to depend on the contingency of other nations continuing it. A still more alarming effect of this system will be to drive population and capital from one State to another. The poorer agriculturists of the Atlantic States will be compelled, by the increased cost of consumption, and the diminished price of produce, to go the West in search of more fertile lands; whilst capitalists will go to those States where manufactures are best established and most flourish. And shall we submit to this unlawful effect of this system without calling in question the policy which produces it? The committee are disposed to do more—to call in question the authority and power of the General Government to enforce a system which can thus aggrandize one State and ruin another.

A still further source of loss is in the effect of this system to drive capital from one kind of manufactures to another. The manufactures that languish will be deserted for those that flourish, or they must be continually bolstered up by new protection. Indeed, even the manufactures that are best established must be sustained in this way, if, as is very possible, by the invention of new machinery, or by any other means which will diminish the cost of production, foreigners can come again into the market, and, in spite of the duties, undersell the American manufacturer. This is one of the most vexatious effects of the system. It will never be done with, but new exactions will be perpetually made.

It has been contended that the arguments which go to show the impropriety of extending manufactures are merely theoretical, and that they are refuted by experience. It is said that England has pursued the restrictive system; that England is wealthy and prosperous; and, therefore, that the tendency of the system is to promote wealth and prosperity. The committee cannot, however, help thinking that it is rather an unfortunate specimen of practical reasoning, when an effect is gratuitously assigned to a cause without any attempt to show their connexion, and where many other causes are operating better calculated to produce the effect. England is wealthy and powerful; but she is not prosperous in consequence of this system, but in spite of it. She is wealthy and powerful in consequence of the indomitable energies of her genius, her enterprise, and her comparatively free institutions. The English system is not the result of foresight, as has been im-

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aged; and if it were, it is pretty well understood by what kind of foresight the affairs of nations are generally governed. It is the result of compromise between the avarice of individuals and the needy ambition of the Government. The privileged orders of that country have always been enabled to make successful encroachments on the rights of the people, by bribing the cupidity of the Government with a share of the spoil. This is the kind of foresight which has produced the British system—that system which is now held up for our admiration and imitation. But experience, as well as theory, contradicts the conclusions in favor of restriction. The success of the Dutch policy refutes the idea that restrictions have produced the grandeur of Britain. The following judicious remarks, extracted from an excellent treatise on this subject, show the prosperity which flows from an opposite policy:

“Notwithstanding the immense losses which the Dutch nation sustained for upwards of twenty years, by British captures, French exactions, and the almost entire prostration of commerce, yet their trade, and with it their national importance, appear to have become equal, or nearly equal, to what they were before the war of 1793. Their capital city, Amsterdam, has again become the chief mart of Europe. If the policy of any of the European nations is proper to be imitated by the United States, why is not the example of the United Provinces, as regards their fiscal concerns, as worthy of imitation as that of England? At least, seeing that in Holland her citizens have, for the most part, been left to themselves in the direction of their industry, ought we not to pause before we decide that an opposite system will promote and extend the prosperity of our citizens? How little the Dutch commercial policy has been directed by the protecting system may appear by the low duties on the following articles, most of which come in competition with their own produce and manufactures, viz:

Arms, fire	- - -	10 per cent.
Baskets	- - -	15 per cent.
Butter	- - -	one-half cent per lb.
Books, bound	- - -	5 per cent.
unbound	- - -	3 per cent.
Bristles and brushes	- - -	10 per cent.
Blankets	- - -	10 per cent.
Cheese, foreign	- - -	80 cents per 100 lbs.
Cordage	- - -	2 dols. per 100 lbs.
Carriages, new	- - -	10 per cent.
Clocks	- - -	10 per cent.
Copper manufactures	- - -	10 per cent.
Candles, tallow	- - -	2½ cents per pound.
Clothes, ready made	- - -	10 per cent.
Cotton	- - -	16 cents per 100 lbs.
Cotton manufactures	- - -	13 flor. per 100 lbs.
about	- - -	2 to 3 cents per yd.
Cloths, woollen, and other manufactures, wool and worsted	- - -	8 per cent.
Linens, unbleached	- - -	2 per cent.
bleached	- - -	4 per cent.
Sail cloth	- - -	2 per cent.

Sugar, raw or clayed	-	12 cents per 100 lbs.
refined	- - -	4 cents per lb.
Sealing wax	- - -	10 per cent.
Spirits pay no duty, but an excise, which for common proof (probably our 3d proof) is	- - -	28 cents per gal.
Spirits, highest proof	- - -	42 cents per gal.
Wine of all kinds	- - -	16 cents per gal.
Tobacco, manufact'd snuffs, &c.	- - -	8 per cent.
Toys, turnery, manufactures of wood and leather, necklaces, looking-glasses, trunks, snuff, and tobacco boxes, fans, with a great variety of similar articles	- - -	6 per cent.

*Foreign vessels.*

Teas, Bohea and Congou	\$3 20	per 100 lbs.
Other	6 40	per 100 lbs.

*Dutch vessels.*

Teas, Bohea and Congou	\$1 00	per 100 lbs.
Other	2 00	per 100 lbs.

“This extract is from the tariff of Dutch duties for the year 1816, every article of which, with very few exceptions, is rated about in proportion to those quoted above. Most of them, as is well known, are manufactured or produced in Holland, especially butter and cheese, of which the amount of exports, some years since, was, to the best of my recollection, about three millions sterling. Their sugar refineries are only protected by a duty of four cents a pound, yet Ricardo affirms that, in his time, (about forty years since,) there were one hundred refineries, which manufactured one hundred thousand hogsheads of sugar. Tobacco is very extensively manufactured in Holland. Gin, as every one knows, is one of their great staples. This wise nation seems to have thought that goodness of quality and cheapness of price were surer foundations for national industry to rest on than protecting duties.”

The invariable tendency of low duties to increase consumption, and, of course, production, is another argument from experience. Both in England and France this effect has frequently been observed at various epochs of their history. The following statement, extracted from a British journal, will suffice to place this subject in a strong point of view: “In 1744 the East India Company's sales of teas amounted to about six hundred thousand pounds annually, producing a revenue of about £140,000 sterling. Early in 1745 the tea duties were greatly reduced, and in 1746 the sales amounted to two million pounds, and the revenue to £228,000. In 1748, however, the duties were again increased, and fluctuated between that epoch and 1784 from 64 to 119 per cent. In the last mentioned year, however, the Government, having in vain tried every other means to prevent the smuggling and adulteration of tea, reduced the duty from 119 to 12½ per cent.; and the revenue, instead of falling off in the propor-

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tion of one to ten, owing to the increased consumption only declined in proportion of one to three." Similar experiments, with regard to wine and coffee, give the same results. The reason is obvious: every diminution of a duty on an article brings it within the range of consumption of some who could not afford to consume it before, while every increase has a contrary effect. To adjust the duties, generally, so as to produce the greatest possible revenue, is a matter which requires great skill and experience. Although we have made no such decisive experiments as the British, (for the effect of the imposition and repeal of the double duties, owing to the period when they operated, proves nothing,) there is still reason to believe that the operation of the present duties, on many articles, has been to diminish consumption and revenue. It is difficult to make the proper allowances for the effect of the rapid increase of population in this country; but the fact that revenue has not increased in the same ratio with the duties and population is considered as decisive proof that the duties on many important articles must be too high. Indeed it is generally admitted, by the most intelligent and practical men, that they are so.

Now, the general principles from which the committee have reasoned are either true or false. If they are false, it will be easy to show wherein the fallacy lies. If they are true, it will be necessary to show that there is something peculiar in the situation of the United States which makes an exception to their general operation. If there is nothing peculiar in our situation, then these principles must stand immovable. The most extraordinary argument that has been used to justify the system is the great and universal distresses of the country. But in this there is nothing peculiar; it is almost universal. But even if it were true that we are the only people in this state of distress, it would remain to be proved that this system furnishes the remedy for the disease. So far from this being the case, it is believed to be one of its causes. Undoubtedly, a great proportion of our distress may be ascribed to the cessation of those convulsions in Europe, which, throwing a vast deal of the trade of the world into our hands, enabled us to reach an extraordinary pitch of prosperity in a short time. But it should not, therefore, be supposed that there have been no internal causes of this distress. To say nothing of the contributions levied on the nation, by funding and banking, the restrictions which preceded the war, the war itself, though a just and necessary measure, and the subsequent prosecution of the restrictive system, had a share in producing the general distress. The revenue from the imposts gives us some idea of the tax which the system imposes on us; but we cannot form an adequate idea of it, unless we could ascertain the quantity of domestic manufactures consumed in the country, and the average of the duties paid on them. There are no means by which this can be ascertained with precision, but we may form a rough estimate of it from a few items. Supposing there are forty or fifty millions of yards of domestic cottons consumed in the United States annually, the

consumers may be supposed to pay on them at least \$2,000,000. As much more is probably paid on woollens, (and it is probably not an exaggeration to say that the tax paid on domestic articles, which goes to the manufacturers, is fully equal to one-half of the average duties on imports;) this is the direct loss; to which must be added the indirect and collateral losses that it has been attempted to be shown result from the system. When we superadd this to the other causes that have been indicated, can our distresses any longer present a mystery? And is it not more natural to ascribe them to these obvious, undeniable, and constantly operating causes, than to look for those causes in futurity? Is it not reversing the usual order of things to attempt to explain a past or existing effect, by imputing it to what has not been done, instead of what has been done? Is it not contrary to reason to tell us that the remedy for evils which have arisen from taxation is further taxation? It is much more rational to remedy the evil by removing the cause. This we can certainly do, partially, if not wholly. We can remove some, if not all of the causes. We can gradually get rid of all those burdens which have had so great a share in producing the present calamitous state of things. This is all that we can do; the rest must be left to time. If it be true that the duties on importations have diminished consumption, they must have had the same effect on production; and their diminution would increase both. In the present depressed price of all the great staples of agriculture, what can be so likely to relieve the agriculturist as to open a market for his produce? And what will be so apt to do this as to increase the demand for them, by diminishing the prices of the commodities that are exchanged for them? It is said that nations now produce these staple of agriculture themselves, and would not take them from us. To a certain extent they do; and this has been occasioned partly by our own policy, as in the instance of the island of Maderia, which, in consequence of our excluding her wines by heavy duties, procures the corn she once bought of us from other countries. But how is it that nations now make their own breadstuffs? In England, for example, they have resorted to their fourth and fifth rates of land. Now, would not any circumstance which would increase the demand for those articles which they produced with greater facility than corn be an inducement to withdraw capital from the raising of the latter to apply it to the former? This reasoning will apply to every country. Open a market for their products; they will then make that which they make at least cost, and purchase with it, of other countries, what they can only make at a greater cost. If it be said that a relaxation on the part of one nation will not, perhaps, produce a correspondent relaxation on the part of another, it will still be beneficial, unless by continuing restriction you can coerce other nations to abandon it—the only pretext, as has been already said, under which the countervailing policy can claim even plausibility. As long as the absurd doctrine prevails that it is the interest of a nation to countervail

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every restriction of another nation, there never can be a relaxation, or a return to the free system; the warfare of nations will be interminable. The truth is, if restriction on the part of one country injures another, to retaliate makes it worse, unless it drives the other from its policy. The most probable way of producing an abandonment of the restrictive system by other nations is to tempt them by relaxation; if it does not produce reciprocity, it at least benefits both, as retaliation injures both. It is evident that there has been a great change in public opinion throughout the whole civilized world, in favor of freedom of commerce; and, though Governments are always the last to abandon antiquated errors, sentiments favorable to free trade have been avowed even by them, and they have not been altogether unaccompanied by acts. It is not to be expected that countries like England, which have pursued the restrictive system so long, could get rid of it but very gradually. She has, however, shown some wish to do this, by the abandonment of some of her restrictions on her trade with Sweden and Norway; and it is understood that both France and herself have, even before our navigation acts, manifested a willingness to put our trade with them on a more favorable footing. In Spain, the Cortes have (unwisely, indeed,) imitated England in their corn law and other restrictive measures; but, in general, their regulations are more favorable to trade than they were under the old Government. The monopolies on tobacco, salt, quicksilver, lead, powder, sulphur, &c., have been abolished; the first allowed to be imported, and the others exported at moderate duties. Prior to the revolution, the importation of tobacco was prohibited; the King had the monopoly, and sold it at three dollars and seventy cents per pound. By the new tariff, after March next it will be charged with a duty of only thirty-five maravedis, about eight and a quarter cents per pound, which will enable the people of Spain to procure it very cheap, and thus occasion a large demand for it. They have abolished the Cinco Gremios and Philippine companies, on the ground that their privileges were incompatible with free government, and have, with some modifications, re-established the tariff of 1816, which was the first evidence of liberal policy that Spain ever gave.

But if we cannot, consistently with our interests, begin the system of relaxation, let us at all events refrain from further restrictions, which may tempt all other nations to retaliate, as they are now doing in the British province of New Brunswick, under the pretext of our navigation act, and thus place ourselves and the world at a still greater distance from each other, and from the restoration of commercial freedom.

The committee are of opinion that, so far from there being any thing peculiar in the situation of the United States, which renders the general principles they have advanced inapplicable, there are peculiar circumstances which make them apply with more force than to the nations of Europe. It will be recollected that, in a former part of their observations, it was attempted to be proved

that, in a country where lands of the first quality are still out of cultivation, and are abundant, a system of duties cannot raise the price of one agricultural product but at the expense of another, and cannot raise the price of any kind permanently at all. But this is not the case in such a country as England. Where the field of production is limited, supply cannot keep pace with demand. In England, therefore, the agriculturists may obtain some compensation for the taxes they have to pay the manufacturers, and, in turn, receive taxes from them. But, in this country, the sole benefit is on one side; the agriculturist has no compensation; it is out of the power of the Legislature to do any thing for him, but to refrain from oppressing him.

Again: Europe is more dependent on us than we are on her; because we furnish her with necessities, and she furnishes us with luxuries; because her means of producing those necessities which she possesses will be daily diminished, and her dependence on this country will be increased, unless we force her to find out another to furnish her with food, and take off her surplus population.

In the next place, we are not yet so deeply involved in the restrictive policy as to prevent us from getting rid of it without mischief, as we shall be if we go a few steps further. There are many other peculiar circumstances which forbid our resort to the British policy, but the most important belong to the other branch of the subject proposed to be discussed.

The committee regard the principles they have appealed to as irrefragable. They are not to be refuted by the charge of theory, by the cry that we are supporting foreigners, or by the doctrines of the home market and the balance of trade. What is this balance of trade? Certainly it is not a very creditable mode of gaining; but is it not evident that, if we cannot pay for what we buy, it is clear gain; and that, if our citizens wish to buy again on these terms, it is unnecessary for the Government to interfere, as foreigners will refuse to sell? If we can pay for what we buy, it is all well and good; if we can pay only at a sacrifice, then we will cease to trade. The whole of this fallacy proceeds from that fatal error in political economy, that the commodity called money is regulated by different laws from all other commodities; or from that no less fatal error, which springs, perhaps, from the first, that a nation must sell more than it buys in order to become rich. Now, the very reverse of this is true; for, although in one sense commerce is an exchange of equivalents, what each party receives must be worth more than what it parts with, or neither is benefited. A nation buying more than it sells is supposed to be the same with its spending more than it makes; but the cases are not alike. What it sells is surplus, and what it buys is surplus; surely it cannot be a matter of regret when the latter is worth more than the former, and when there is an excess to devote to reproduction. It could hardly have been imagined that, in the nineteenth century, in a country whose Government is bottomed on the principle that the people are capable of seeing their



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own interests, it could have been thought necessary for the Legislature to interfere, to prevent the merchants of the country from buying more than they ought to buy. What reason there was for this interposition is shown by the subjoined facts. In 1818, the exportation of cotton goods from Great Britain to the United States amounted to £2,432,301; in 1819, it amounted only to £1,109,138; being a falling off of £1,323,163. The exports of glass, earthenware, hardware, cutlery, in 1818, were £971,285; in 1819, only £546,741. The amount of woollen goods, in 1818, was £3,160,406; in 1819, it dwindled down to £1,703,024. In all the great leading branches of manufactures there was a falling off in the exports, to the United States of a full half in the amount, as compared with the year before, and of above £3,500,000 as compared with the average of exports during the last three years.

A case has been proposed as a very strong one, which is this: Suppose that all the various employments of capital are on the lowest level which will continue them. In this state of things one class is entirely thrown out of employment by foreign competition. They must either be protected or must be ruined; and this, it is said, is the actual condition of the United States. It is divided into two classes, one of which has no employment, and the other barely enough. Without stopping to inquire whether it be possible for such a case to exist, it will merely be observed, that if it did it would be improper to give the required protection. If the one class has barely such profits as will continue them in employment, they have nothing to spare. If they have any thing to spare, it is proof that their employment is not so full as to preclude new capital, which is contrary to the supposition. The one can only be raised up by the other being put down. Nor is the case different whether the classes which have employment make small or great profits. That which is employed can only be employed at their expense. In both cases it is unjust; in the latter unnecessary, as great profits will furnish the employment required.

It is not believed that any circumstances exist which will justify the United States in adopting the proposed system. No writer of any reputation ever contended that such a system was compatible with the greatest extension of the national wealth. Even Mr. Hamilton, its great advocate, admitted that if the system of perfect liberty and free trade were the prevailing system of nations, they might attain a greater pitch of wealth and prosperity. It has been attempted to be shown that this limitation to his proposition is founded in a fallacious view of the subject. To propose to increase the wealth of the nation by increasing its taxes is enough to revolt the understandings of ordinary men; yet it seems that a mode of doing this has been discovered, and that the whole mystery lies in calling that which was before called tax—tariff. In the opinion of the committee it is the worst kind of tax, carried to the extent that is proposed; and it would be much better to raise a sum of money by direct taxes at once, and distribute it in bounties among the manufacturers. We should

then escape at least some of the oppressive effects of the system.

The chief recommendation of this system has been supposed to be its tendency to promote domestic independence and happiness. This leads the committee to the second view which they proposed to take of the subject. This is a view which belongs not merely to the political economist, but also to the statesman. The political economist concerns himself only with the manner in which wealth is produced, distributed, and consumed, with a view to its augmentation. The statesman regards this also, but he sometimes sees the necessity of sacrificing a portion of the national wealth in order to attain objects still more desirable; and no objects would appear better to justify such a sacrifice than the promotion of national independence, happiness, and security. It will be attempted to show that the system will be more objectionable in this point of view than in any other.

The observations the committee have already made on the effect of the system to diminish the national wealth serve to establish this position. If such really is the consequence, this alone is an unanswerable argument against the supposed effect of the system to render us independent of foreign Powers. If this general position be correct, it is useless to enter into any details to prove that the revenue must be diminished; for whatever diminishes that on which the revenue acts—the general wealth—must diminish the revenue itself, or else increase the burden of taxation. Even if we could preserve entire the capital of the country, and employ the same number of hands, as they would be less productively employed, there would be less net revenue, less of that great agent which has been said to be the first, second, and third requisite in war. Now, it is not the gross amount of its capital, but its net revenue, which a nation employs to defend itself. If men and ships could be multiplied by a magic wand, you could not add one soldier to your Army, or one vessel to your Navy, without an addition to your net revenue. If the income of the nation is destroyed, we must still have revenue; and how shall we get it but by taxing capital? Indeed, where will be our boasted advantages over other nations with regard to taxation, if the proposed tariff be adopted? If we add twenty-five per cent. to the duties, and then have to raise the same amount of revenue by direct taxes, or by an excise on manufactures, (and in the latter case we should have to pay the duties twice,) we at once add one hundred and fifty per cent. to our taxes—that is, every man who before paid a dollar will now have to pay two dollars and fifty cents; and, if we take into consideration the increased value of money, more, if estimated by the price of corn, than a hundred and fifty per cent., every man who before paid a dollar will have to pay six dollars and twenty-five cents. It would appear that the appreciation of money ought to affect all articles equally; but, in point of fact, it is known, that whilst grain has fallen more than one hundred and fifty per cent., and the other staples of agriculture

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considerably, the fall in manufactured products is comparatively small, so that it is quite immaterial whether it is from the appreciation of money, or from external and domestic causes, the ability of the agriculturist to pay taxes will be diminished by the tariff fully in the proportion stated, and the argument against imposing them is not the less strong. Is it possible that they can submit to this intolerable load of taxation without making every lawful attempt to oppose it? Is it possible for them to believe for a moment that this increase of taxation is the remedy for their distresses?

It is not designed by the committee to claim any preference for agriculture and commerce over manufactures. They mutually depend on each other; their interests are not adverse; and, if not equally productive, they are all equally necessary to society. But, whilst the political economist might regard it as a matter of indifference in what proportion the three great classes are distributed in society, the statesman and patriot could scarcely hesitate to wish that the agricultural class should greatly predominate. The agricultural state is more favorable than any other to the improvement of the physical and moral powers of man. Whilst an agricultural nation will be as powerful as others, it will be more virtuous and happy. It is in this state that the body is invigorated by healthful exercises; that the mind is ennobled by the freedom and independence of rural life; and that man feels the true dignity of his nature. Who would think of comparing the brave, hardy, and independent yeomen of this, or any country, to the miserable, half-starved, rickety population of an English cotton factory? Who would compare the hardy mountaineer who pursues the deer, or slays the buffalo, their equal in swiftness and in strength, to the poor, decrepit, emaciated creature who has been all his life engaged in the same dull, stupifying routine of drawing out a ten yard thread, or manufacturing the eighteenth part of a pin? Yet it has been attempted to be proved that there is more vice among the agriculturists than among the manufacturers, because Colquhoun, a writer who is the partisan of the latter, has asserted that more crimes are committed in some of the agricultural than in some of the manufacturing districts of England; whilst the just answer to the argument implied in this statement has been overlooked, that, where it has happened at all, it has been owing to the laborers, from want of employment, being thrown back from the manufacturing towns, which have converted them from healthy and well disposed children to weakly and depraved adults, on the county from which they originally came.

But if we are agricultural, we must also be commercial; and commerce, it is said, produces more wars than it pays for. If this be true at all, it can only be true of commerce pursued under the dark influence of the restrictive system. Commerce, free and unfettered, so far from being the cause of wars, would be the source of wealth, power, and prosperity, and a bond which would bind in peace and harmony the universal society of nations. And it is not an unreasonable expectation that

this is the kind of commerce that will be pursued, whenever nations are governed by enlightened rulers, or rather when they assume the right of governing themselves. The whole civilized world is now essentially commercial. From the period that commerce first emancipated the nations of Europe from feudal vassalage, its march has been steady, progressive, and rapid. It has been the great agent by which the treasures of the earth and the collected wisdom of mankind have been spread throughout the world, and the source of the prosperity and grandeur of empires. To attempt to impede its progress is to disregard the spirit of the times and the admonitions of experience. It is as useless as to oppose the march of the human mind towards freedom, knowledge, and happiness, or to contend against the irreversible decrees of nature. Nations have become acquainted with each other, and with the advantages which they may derive from liberal intercourse; and laws are not strong enough to keep them asunder. They can only vex and disturb their intercourse; they cannot prevent it. It is the interest of every nation to pursue commerce, but peculiarly so of the United States and of every free Government. It is equally important to us, whether we consider it as the basis of our Navy, or as the grand instrument for the extension of science, social feelings, and freedom throughout the world.

To pursue the subject: If we give to manufactures all the activity which they must derive from the agricultural and commercial classes being taxed to support them, we must, in time, become exporters of manufactures. When this takes place, will we not be exposed to all and greater inconveniences than we now are, from the refusal of foreigners to receive our raw produce? Which, indeed, would be most apt to suffer from vicissitudes in the affairs of the country—a nation engaged in producing the first necessities of life, or one engaged in producing luxuries, or only a secondary sort of necessities?—one employed in producing commodities subject to the caprices of taste and fashion, or one employed in producing those which are essential to human existence?—one pursuing occupations which can be changed with facility, or one pursuing those which can be changed only with great difficulty and loss? What, it is asked, would have been the situation of England—where would have been her independence—if Napoleon had succeeded in carrying into effect his continental system? And now, since this system has been partially adopted by the continental nations of Europe, and by ourselves, is not this destruction of the markets for her manufactures, next to taxation, the principal cause of the distresses of that nation?

It is urged that a nation should have in time of war the necessities which will enable it to carry on a war; and so it should; but the proposed tariff goes infinitely beyond this point. It is believed that the manufactures of all the necessities of war are now perfectly established in this country. Coarse clothing, and arms, and ammunition, are not considered as requiring further support. The inquiry now making, in connexion with the

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census, will prove that we have almost every necessary in great abundance. It must be recollected, too, that in a future war, unless by our policy we destroy the Navy, our commerce will not be so entirely kept down, even if that war be with England. Our Navy is now strong enough to prevent the coast from being blockaded, and we shall be enabled to maintain an intercourse with the nations with whom we are not at war. But, it is asked, even if we could not get some of the necessities we required, does any one seriously believe that the result of any war would be affected by such privations? and if they only affect some of its details, delay a march, or even increase the general mass of suffering, what is this compared with the wide-spread and endless calamities that this system would give rise to? Should our policy be adapted to peace or to war—to the rule or the exception? Undoubtedly, in time of peace we should prepare for war; but let us not make this preparation at so great an expense that its exhausting operation will incapacitate instead of fit us for war.

The demoralizing effects of this system, its tendency to impair the principles of honor and honesty in society, and to give rise to fraud, to smuggling, and to all the low artifices and depravity which are inseparable from all arbitrary legislation, and thus to force upon us a sanguinary code of revenue laws, utterly incompatible with the free and humane principles of our Government, are too obvious, and have been too fully exposed, to require further comment from the committee.

If these are the disastrous effect of this system, what will be thought of those which our free institutions themselves must experience from this unwarrantable interference of the General Government with the rights of private property? An interference which may render nugatory the whole frame of civil polity which the States have adopted for the preservation of their institutions and the promotion of their happiness, and which may, ultimately, break down and destroy the very barriers which secure their rights and sovereignty. The blessings of a free Government are so great, and the evils of an arbitrary one so grievous, that we cannot be too careful to preserve the one when we have it, or to avoid the other. It would therefore appear, that whenever a new measure is proposed, the first inquiry of every citizen of a republic should be, what will be its effects on our institutions? Yet, as obvious as is the truth of this observation, it is somewhat remarkable, that in all that has been so ingeniously written and spoken on the subject of banking, and funding, and manufacturing, they have scarcely ever been considered in their effects on our institutions, but merely in reference to their financial and pecuniary operations. Our legislators and writers have, for the most part, viewed these subjects as political arithmeticians rather than as statesmen.

If the view that has been taken of the manufacturing system be correct, it must not only diminish the amount of national wealth, but must distribute it very unequally. This is by far the worst effect of the two. It taxes one class for the

support of another, and, what is worse, taxes the poor for the sake of the rich. It thus produces that inequality which is the bane of republics; for it is, in fact, the influence of the few, or, in other words, aristocracy.

Now, though no just Government will interfere, by sumptuary laws, to restrain the acquisition of wealth, and thereby prevent inequality, so neither will any just Government, by fostering particular interests at the expense of others, promote inequality. This is the opposite and the worst extreme of sumptuary laws. Nor is the inequality which is produced by the interference of the law by any means as harmless as that which results from different dispositions and different capacities in human beings. Whilst the one may act as a salutary stimulus to industry, and its worst consequences are continually neutralized by the alienation and division of property, the other, by creating distrust in the Government, produces despair and depresses industry; and the dread of retributive justice, which always accompanies wealth unjustly acquired, so far from giving rise to division of property, inevitably leads to concentration and primogeniture, to legal safeguards, corporations, charters, monopolies, and privileged orders. The fear that the law which has given may also take away, produces the necessity of usurping the law-making power. An alliance between the privileged classes is the inevitable consequence; hence a new accumulation of powers, new pretexts, and new means of oppressing the people. The Government must be rewarded for its protection by an increase of power, patronage, salaries, taxes, and a diminution of responsibility. The various departments of the Government will no longer move in their appointed spheres, but usurp each other's authority. The State sovereignties will be merged in the General Government, and the legislative authority in the Executive. Such is the natural consequence of creating separate interests by law; such is the effect of that inequality which is produced by the interference of the law with individual wealth; such the process by which free Governments are metamorphosed into aristocracies. It is remarkable, that, although the fundamental maxim of our Government is that the people are capable of self-government, our Legislatures often practically deny it. They place too much reliance on the efficacy of technical rules and artificial restraints. Legislators consider themselves as the rulers, not the agents of the people; as their guardians, not their attorneys. The disregard of that fundamental maxim, that there is an inherent disposition in man to improve his condition, and sagacity to perceive the means, is believed to be the source of innumerable errors in legislation, and particularly of that which dictates the usurpation of the right to direct individual wealth.

It is not to be wondered at that the advocates for the supremacy of the General Government should defend a policy which is calculated to aggrandize it, by creating a new class of dependants; but it is greatly to be wondered at that the friends of State rights should ever have defended it; it

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can only be because they have not fully perceived its certain consequence. It is believed that no candid mind can fail to perceive that the effect of the manufacturing and its kindred systems will be to transfer a great portion of the wealth of the agriculturists to the other classes. If wealth is thus transferred, so are the means of education, of knowledge, and, consequently, of power. This is a subject which demands the serious attention of every agriculturist in the Union. The evil is augmented, too, by the heavy duty on books, which bears with peculiar hardship on the agriculturist, who does not enjoy, as the merchant, the manufacturer, and the mechanic, the advantage of the public libraries of the cities. The material with which they cultivate the earth, and that with which they cultivate the mind, are alike under the interdiction of this system.

The great influence which the manufacturers, scattered as they will be over the whole face of the country, must acquire, will leave the agriculturists little hope that if they once assent to their system it will ever be revoked. Among the means by which their influence in the Government must be increased, the facility which they must derive from our popular modes of election, of directing the suffrages of the persons they employ, is not the least worthy of consideration. This apprehension is not diminished by the consideration that their dependants, as we are told, will consist principally of foreigners. As much as we respect that class of people, and as willing as we always are to afford them an asylum in our free and happy land, it is not believed that our legislation could derive much improvement from the counsels of the cotton weavers of Manchester and the blacksmiths of Birmingham. They have imbibed their political notions under a Government too dissimilar to ours to be useful citizens in the capacity of legislators.

The committee have already adverted to the effect of the system to drive population and capital from one State to another, and to aggrandize the General Government at the expense of the States. Now, it must occur to every impartial mind, that, if there be any force at all in these observations, the right of the General Government to adopt such a system must be more than questionable. Passing over those Constitutional objections which admit of being urged with great force, that Congress cannot lay taxes but for the purpose of revenue, and that this system is equally incompatible with that part of the Constitution which prescribes uniformity of imposts, and with that which forbids taxes on exportation, they will appeal only to that sacred spirit of justice which we all equally venerate, and the authority of which we equally acknowledge; and they ask, in the name of that justice, whether it is possible to believe that the Congress of the United States can, without violating every principle on which our republican system is founded, tax one class of the community for the support of another? whether they can debar a man the use of the faculties he has derived from nature? compel him to abandon an occupation to which he has devoted his life, and which he understands, and to pursue another which he does

not understand? whether it can take away the fruits of one man's industry, earned by the sweat of his brow, and bestow them on another who has not earned them? No Legislature, much less a limited one, has any such right. Those who become parties to Government cannot be supposed to agree to any other exactions than such as are necessary to defray its just expenses, and to preserve public order and morals. Even, therefore, if it could be made to appear that the effect of the system would be to augment the whole wealth of the nation, this object could not justify a Legislature in taxing particular classes, without their consent, for the benefit of the whole. The object of government is to secure men in the exercise of their faculties, not to restrain or direct them; to secure them in the full and free enjoyment and control of their property, and not to distribute and regulate it by its own arbitrary will. It never could have entered into the contemplation of the States, when they agreed to the Constitution, that the General Government had a right, by its legislation, to change their mutual relations towards each other; to enrich one, and impoverish another; to strengthen one, and weaken another; and to impair, and perhaps ultimately destroy, the wealth, freedom, and happiness of them all. Let it not be thought that this is the language of hyperbole. The committee speak of the natural tendency of the system. No one knows how far, in conjunction with its kindred systems, it may stop short of these consequences; no one knows how far it may go beyond them. Our only safety is in arresting it now, when almost every circumstance is unfavorable to its adoption. There never was a time when there was less apology for it. The adoption of it by the continental nations of Europe will enable us to obtain some benefit by abstaining from it—will diminish the advantages of our manufacturing, and increase those of our tilling the earth. The unparalleled distresses of the country, of which agriculture experiences by far the heaviest portion; the increased facility of manufacturing, without artificial aid, from the fall in the price of labor and materials—every circumstance opposes this policy, and recommends a contrary one.

The people of these States, like the three great occupations that employ them, are united by the strongest ties of reciprocal interest. They feel a just pride in the inheritance bequeathed to them by their ancestors, their common freedom and glory; and they equally appreciate the blessings which they derive from that union, which is the result of their mutual exertions, and which it is mutually their interest to preserve. But these blessings must be seriously impaired without the cultivation of good will, and the undeviating exercise of justice towards each other. It is by this means only that the temple of our Union can be cemented and consolidated, and that we can preserve it from the fate which the dissoluble fabrics of other Governments have shared. The committee believe that nothing can have a greater tendency to diminish our confidence in the Government of the Union, and to impair our affec-

*The Sinking Fund.*

tion for it, than all those measures which distribute its advantages partially and unequally. They believe that such will pre-eminently be the effect of the manufacturing system as proposed by the tariff bill that has been reported, and they fear that this is only the commencement of the system; not that they attribute any unfriendly designs or impure motives to its friends, but that the same reasoning which has begun the policy will dictate its continuance; and that the unsuccessful issue of every effort will be an argument, not for abandoning it, but for making a new attempt.

The committee are fully aware of the great importance of certainty and stability in the regulations of trade, and of the tendency of constant fluctuations to impair that confidence which is necessary to the activity and success of commercial operations; but it is desirable that agriculture should experience at least some of the benefits of those changes which our present system seems destined to undergo. Believing, however, as the committee do, that the proper object of a system of duties is revenue, they regard the revision of the tariff as being strictly the province of the Committee of Ways and Means. With these impressions, and representing, as they do, only one of the great interests of the community, they forbear to propose any positive measures which might seriously and extensively affect them all. They have freely expressed their own sentiments on the important subject referred to them, and they believe those of the great majority of the agriculturists throughout the country. In conformity with these sentiments, they offer the following resolution:

*Resolved*, That the increase of the duties proposed in the bill entitled "A bill to regulate the duties on imports, and for other purposes," reported by the Committee on Manufactures, is incompatible with the interests of agriculture and of the community generally, and ought not to be adopted.

## SINKING FUND.

[Communicated to the Senate, February 7, 1821.]

The Commissioners of the Sinking Fund respectfully report to Congress:

That the measures which have been authorized by the board, subsequently to the last report of the 5th of February, 1820, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this board, dated the 5th day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as a part of this report.

JOHN GAILLARD,  
*President of the Senate pro tem.*

JOHN QUINCY ADAMS,  
*Secretary of State.*

WM. H. CRAWFORD,  
*Secretary of the Treasury.*

WASHINGTON, Feb. 6, 1821.

TREASURY DEPARTMENT, Feb. 5, 1821.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the sum disbursed from the Treasury, during the year 1819, on account of the principal and interest of the public debt, as per the last annual report was - - - \$7,721,020 96

From which deduct the amount of repayment in that year - - - 17,199 09  
\$7,703,821 87

Which, with a sum arising from damages and interest on two protested bills of exchange, repaid in 1819, which in that year had been purchased and remitted to Europe, for payment of interest on Louisiana stock - - (a) 2,631 78

Together with this sum, being the difference between the principal of stock purchased during the year 1819 and the money paid for the same - - 47,608 49

And a further sum, being gain on remittances to Europe in 1819, as appears by statement D, annexed to the last annual report - - - 1,322 87

Amounting, together, to - - - \$7,755,385 01

Have been accounted for in the following manner, viz: There was applied for the payment of, a sum short provided on account of the public debt, due prior to the 1st January, 1819, as per statement B, annexed to the last annual report - - - \$128,427 69

The application during the year 1819 towards the payment of the principal and interest of the public debt, as ascertained by accounts rendered to this Department, amounted, as appears by the annexed statement A, to the sum of - - \$7,656,873 16

In the reimbursement of the principal of the deferred stock 485,863 45

In the purchase of the domestic debt, (cost \$664,356 62,) - 711,957 55

In the redemption of the Louisiana stock 1,215,449 73

In the payment of the principal of Treasury notes - - 80,000 00

In the payment of certain parts of the domestic debt - - 64 32

2,493,335 05

On account of the interest and charges 5,163,538 11

7,656,873 16

(a) Amount of repayment by J. M. Ehrick, including interest and damages - - - \$15,520 66  
Cost of two bills purchased by him in 1818, £2,900 sterling, at par - - - 12,888, 88  
\$2,631 78

*Ohio—Bank of the United States.*

Of this sum there was short provided, consisting of unclaimed dividends on the public debt, not applied for by the proprietors, as per the annexed statement

B	29,915 84
	<u>7,626,957 32</u>
	<u>\$7,755,385 01</u>

That, during the year 1820, the following disbursements were made out of the Treasury on account of the principal and interest of the public debt:

On account of the interest on the domestic debt and reimbursement of the principal of the deferred stock	\$5,474,378 88
On account of the principal and interest of Treasury notes	105,444 57
On account of the redemption of the Louisiana stock	1,785,662 04
On account of the interest on the same	188,133 87
On account of the redemption of the domestic debt	1,718 77
On account of certain parts of the domestic debt	124 08
On account of the Mississippi stock	1,150,468 32

Making, together, as will appear by the annexed statement C, the sum of

\$8,705,930 53

Which disbursements were made from the appropriation of \$10,000,000, for the year 1820, agreeably to the act of the 3d March, 1817, to the amount of

\$8,628,514 28

And from repayment into the Treasury, on account of moneys heretofore advanced for the interest and reimbursement of the public debt and Treasury notes, as per the annexed statement F,

77,416 25

\$8,705,930 53

and will be accounted for in the next annual report, in conformity to accounts which shall then have been rendered to this Department.

In the mean time, the manner in which the said sum has been applied is estimated as follows:

There is estimated to have been applied to the payment of the deficiency at the end of 1819, as per statement B

\$29,915 84

Also, in the reimbursement of the deferred stock

\$503,196 94

Also, in the payment of the principal Treasury notes

100,000 00

Also, towards the redemption of the Louisiana stock

1,785,662 04

Also, in the purchase of stock and payment of certain parts of the domestic debt

180 83

Also, in the payment of the Mississippi stock

1,150,468 32

Also, in the payment of the interest on the funded debt and Treasury notes

5,024,737 57

And for replacing funds heretofore advanced for the payment of converted 6 per cent. stock, which in 1819 had been repaid into the Treasury

1,678 43

8,565,964 13

In the next annual statement, the repayments in 1820 will be exhibited as a deduction from the total amount of warrants issued for the public debt for that year, to the amount of

77,416 25

And there is estimated as remaining unapplied in the hands of the agents in Europe, and in protested bills, on the 1st of January, 1821, per estimate G

114,439 79

8,757,830 17

From which deduct this sum short provided on account of unclaimed dividends, payable but not demanded at the Treasury

81,815 48

8,676,014 69

\$8,705,930 53

A statement marked H is annexed, which exhibits the balance of the annual appropriation of \$10,000,000 unexpended on the 1st January, 1821.

And statement marked I, of the funded debt of the United States on the 1st January, 1821.

All of which is respectfully submitted.

WM. H. CRAWFORD.

## RIGHT OF A STATE TO TAX A BRANCH OF THE UNITED STATES BANK.

[Communicated to the Senate, February 1, 1821]

COLUMBUS, January 22, 1821.

SIR: I have the honor to transmit to you the enclosed report and resolutions on the subject of certain proceedings of the Bank of the United States, and to request that you will lay the same before the Senate, over which you preside.

With great respect, I am, sir, your obedient servant,

ETHAN A. BROWN.

To the PRESIDENT of the Senate, U. S.

*Ohio—Bank of the United States.*

*Report of the Joint Committee of both Houses of the General Assembly of the State of Ohio on the communication of the Auditor of State upon the subject of the proceedings of the Bank of the United States against the officers of State in the United States circuit court.*

From the papers submitted to the committee, it appears that, in the month of September, 1819, the Bank of the United States exhibited a bill in chancery before the circuit court of the United States, then sitting at Chillicothe, against Ralph Osborn, auditor of the State of Ohio, and obtained in that court an order of injunction against him, prohibiting him, as auditor, from performing the duties enjoined upon him by the "Act to levy and collect a tax from all banks and individuals, and companies and associations of individuals, that may transact banking business in this State without being authorized to do so by the laws thereof."

It further appears that the auditor, not being satisfied, before the time appointed by law for him to act, that an injunction had been ordered, issued his warrant in conformity to the law under which the tax imposed by law was collected and paid into the State treasury.

It further appears that the circuit court of the United States, at their last term, adjudged that this act of official duty was a contempt of court; for committing which, they awarded a writ of attachment against the auditor, returnable to January term next.

It appears, also, that, at the September term last, upon the application of the Bank of the United States, an order was made allowing them to file an amended and supplemental bill making Samuel Sullivan, the Treasurer of State, a defendant, "as present treasurer of Ohio, and in his private and individual character;" and also making Hiram Mirick Curry, late treasurer, and John L. Harper, the officer that collected the tax, defendants; upon the filing of which amended and supplementary bill, a further order of injunction was made, prohibiting the Treasurer of State from negotiating, delivering over, or in any manner parting with or disposing of" the money collected for tax, and paid into the State treasury according to law. And it further appears that, besides these proceedings, an action of trespass, at the suit of the Bank of the United States, was commenced, and made returnable to the last September term of the same circuit court, against Ralph Osborn, John L. Harper, Thomas Orr, James McCollister, John C. Wright, and Charles Hammond, in which the plaintiffs have filed a declaration charging, among other things, the taking and carrying away the same sum of money in the proceedings in chancery supposed, under color and pretence of the law of Ohio.

Whatever attempt may be made to characterize this proceeding as a controversy between individuals, it is evident that its practical effect is to make the State a defendant before the circuit court of the United States. In every thing but the name, the State is the actual defendant. No other interest but that of the State is involved. In every stage of the inquiry, the rights, interests,

and powers of the State only are presented for adjudication. The final process must operate directly upon the State, and, if effectual, must derange totally the official accounts both in the Auditor's and Treasurer's departments; for, if there be a specific decree, as prayed for in the supplemental bill, a specific execution may be sent into the State treasury to carry that decree specifically into effect.

Nor is it only in its practical effect that the real character of this proceeding is to be perceived. It is distinctly avowed in the body of the bill, both by naming the General Assembly of Ohio as the offending party, and by calling on the court to restrain the Auditor of State from performing official acts in his official character; and, in fact, it would seem, from the foundation upon which the injunction was allowed, both on the first and second applications, that the court must have regarded it as, substantially, a proceeding against the State.

All judicial proceedings are founded upon facts established judicially. The transactions of individuals are verified by testimony judicially taken; but the proceedings of States and Governments are regarded as of public notoriety, to be received upon the evidence of general history. When an individual applies for an injunction against another individual, his application is never regarded unless the matter alleged in his petition be established by his own affidavit, or that of others. The court never restrain an individual in the exercise of his supposed rights, upon the naked suggestion of another. The law of Virginia, of Kentucky, and of Ohio, alike requires that, before any injunction shall be granted, the judge or court granting it shall be satisfied, by affidavit at the foot of the bill, or by other means, that the allegations in the bill are true. The practice of the federal court and federal judges in Ohio has been to require proof. No injunction has been granted upon mere suggestion until that against Ralph Osborn, Auditor of State. No other injunction has been granted upon mere suggestion but that against Samuel Sullivan, Treasurer of State. Both these injunctions were granted instantly, upon application by bill alone, without any proof being offered or required that one single allegation contained in the bill was true. This departure from the common course of proceeding can be accounted for and vindicated but upon one ground—that the party substantially a defendant was a sovereign State, all of whose proceedings were matters of public notoriety, of which the court was informed without proof in the ordinary mode.

By the original provisions of the Constitution of the United States, the federal judiciary were empowered to take cognizance of controversies between a State and citizens of another State; but by the same instrument this jurisdiction was vested exclusively in the Supreme Court. A State never could be held to answer or be made amenable before a circuit court of the United States. By the eleventh amendment to the Constitution, this power to call a State to answer before the Supreme Court, at the suit of a citizen, was wholly

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taken from the federal judiciary. It is perfectly clear that, before this amendment to the Constitution was made, the circuit court of the United States could not have entertained jurisdiction of a suit in equity, enjoining the State officers from executing the State laws, in a case of the direct action of the State sovereignty, like that for the collection of taxes. The principal, and not the ministerial agent is always the proper defendant in such a suit. That principal being directly and personally amenable in the Supreme Court, his case could not be drawn to a tribunal that had no jurisdiction over the principal, by instituting a suit against the agent alone. The State, before the amendment, could be sued in equity before the Supreme Court of the United States, and could, in a proper case, be there enjoined. In that court only could a State be prohibited from carrying her laws into operation. For that very reason her officer could not be enjoined in a circuit court. It would be to subject the interest and rights of the State to the decision of a tribunal that had no jurisdiction to decide them, and where the State could not be admitted a defendant to defend them. It is, therefore, a strange doctrine to maintain that an amendment to the Constitution, expressly forbidding the judges so to construe the Constitution as to call States before the supreme courts as defendants, at the suit of individuals, is to operate as vesting the circuit courts with powers to do that indirectly which they never had any direct power to do. The amendment was intended to protect the States from a direct responsibility, upon process before the Supreme Court, the only tribunal before which they were then liable to be called to answer. By the construction now attempted, this amendment is made to vest the circuit court with a jurisdiction equally effective against the State, though indirect in its form of proceeding. It effects nothing but the degradation and humiliation of the States. Instead of the distinction of being called to defend its rights before the highest judicial tribunal of the nation, the State is reduced to the level of the most ordinary citizen, and made answerable in an inferior tribunal. Instead of enjoying the privilege of managing directly its own interests, and absolutely controlling its own defence, the State must submit to the consequence of blending its interests with the timidity or treachery of others, and must be concluded in a decision made by a case which it is in the power of others to manage as they please. The committee are persuaded that such was not the object of the amendment, and that such is not the correct construction of the Constitution.

It is asserted that this is an individual proceeding against the persons named as defendants; that although the State cannot be sued, yet persons remain responsible, and may be made subject to every proper process. It has heretofore been deemed a sound maxim in ethics, that whatever could not be lawfully done directly, could not be justly effected by indirect means. If this maxim be regarded, (as the State never could be directly proceeded against in the circuit court without a violation of the Constitution,) every indirect mode of proceeding ought to be considered inadmissible; but, in fact, and

substantially, this is not a proceeding against individuals.

A court of chancery proceeds against the person and against the subject: in technical language, *in personam* and *in rem*. The proceeding in this case is not against Ralph Osborn and Samuel Sullivan for any matter in which they have an individual or personal concern; it is only in the performance of official duties that the process of the court interferes to control them. It was not for himself, or upon his individual account, that Ralph Osborn issued his warrant to collect a tax from the Bank of the United States; it was for the State, and in his character as auditor, that he acted: it is not in the transaction of individual business, or upon his own contracts, that Samuel Sullivan is forbidden to dispose of, or part with, particular funds. He is inhibited from paying away money received by him as treasurer, held by him as such, and for the disbursement of which he is officially responsible to the State.

A State, in the abstract, is an intangible entity, like a corporation; in substance, it is a community of individuals; it can only act by individual agents, and its power of action is completely destroyed when these agents are restrained from acting. It is solemn trifling to admit that a State cannot be sued in the circuit court, and, at the same time, insist that every agent that the State employs may be controlled and restrained from performing his official functions by the same circuit court.

The Auditor of State is a ministerial agent in the executive department of the Government; it is his duty to superintend the collection of the revenue; he acts directly for the whole people upon each; in every one of his official acts he exercises a portion of the sovereign power; and when he is restrained from acting officially, it is the sovereign power of the State that is restrained.

Injunctions to stay proceedings in the courts of law are founded upon a different principle; they act upon the party and not upon the court, and call in question the conduct of the party, not the justice or integrity of the judges. The people, too frequently called the Government, never intend that one individual shall use their power to do injustice to another. Courts of chancery are instituted, not to control the courts of law, but to control individuals who may have obtained unconscionable advantages in the law courts. The proceedings of the chancery court is the act of the people; but it does not operate upon the people themselves in and through the courts of law; it only withdraws the subject from the judgment of the people in their law court, to their judgment in their court of chancery, upon the principle that adequate justice cannot be administered elsewhere.

This injunction operates through the auditor upon the whole people of the State. He is their agent; his acts are their acts; he proceeds under their direction, and for their sole benefit. They are responsible for his errors, and are bound to protect him from unjust responsibility.

If the injunction was intended, and did in fact operate upon Ralph Osborn alone, his resignation or removal from office would render it unavailing.



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His successor in office would be at liberty to act notwithstanding the injunction. But that this was not the intention, and is understood not to be the effect of this injunction, is placed beyond all doubt. The bill prayed not only that Ralph Osborn, Auditor of State, but that all others whom it concerned, should be enjoined, and so the order of injunction was made. The court have judicially declared that this order did not extend to Ralph Osborn and his agent alone, but to all who might act upon the subject. By resigning his office after notice of an application for the injunction, Ralph Osborn would have ceased to have any concern in the subject of it. Yet we are distinctly given to understand that his successor in office was enjoined, as well as every other agent or officer whom the law might appoint, to perform any duty connected with the collection prohibited. This fact alone would seem decisive that the proceeding is not personal against Ralph Osborn, but is direct against the Auditor of State.

It is charged in the supplemental bill that the money collected was delivered to Hiram Mirick Currey to keep upon deposit, and by him delivered to Samuel Sullivan to keep in like manner; it is also charged that at the time of receiving the money Currey was treasurer of the State of Ohio, and at the time of delivering it to Sullivan he was the successor of Currey; and the bill prays that Currey as late treasurer, and Sullivan as present treasurer, and also in their individual capacities, may be made defendants; the bill also prays that Sullivan may be enjoined from disposing of the specific moneys received by him upon account of the tax. This injunction, too, is granted upon the suggestions contained in the bill, without any evidence that the money was paid to Sullivan as alleged.

This proceeding is not merely personal against the treasurer, it is direct against the subject; and that subject is money in the State treasury received by the treasurer as revenue of the State, receipted for as such, and as such carried into his official accounts. But this is not a proceeding against the State, because the complainants allege that the "nature and character of the whole transaction forbid the supposition that the money was received by the defendants in the capacity of treasurer." Thus the court are called to determine the whole transaction to be illegal, and then to invest themselves with jurisdiction to reach the specific funds, by shutting their eyes to the real facts of the case, and supposing a state of things that never did exist.

When a State was liable to be sued before the Supreme Court, the process issued against the State, and the court directed a service to be made upon the Governor for the time being. If the proceedings in the present case are correct, it is now sufficient to issue process against the person who may happen to be treasurer, and name him both as treasurer and as an individual, and, upon such process, at the mere suggestion of a complainant, prohibit him from using, for the benefit of the State, any moneys paid to him officially which it may be alleged were collected illegally.

In due season a decree may be passed for the specific restitution of the money thus claimed, and this decree will bind the treasurer that may be in office when it is pronounced, and subject him to the responsibilities of a defendant. If he refuse to pay the money, the court may attach him for a contempt; if he does pay it without a legislative appropriation, he is liable upon his bond, and subject to impeachment. Such might have been the consequence of a judgment against a State in the Supreme Court; and it was, no doubt, an apprehension of such a result that induced the amendment to the Constitution forbidding the Federal courts to call a State before them as a defendant at the suit of an individual.

It is evident that the principle of the proceeding secures to the Federal tribunals every power supposed to be taken from them by the amendment. If the Auditor of State can be enjoined from acting officially; if the treasurer can be decreed to pay back money received as revenue, upon the doctrine that the court consider them wrongdoers, there is no case of the exercise of State power that may not be completely controlled. The Legislature levy a tax; the Federal court are called upon, and, upon motion, adjudge it to be contrary to the Constitution of the United States; they regard the collector as a wrongdoer, and enjoin him from collecting it; the tax is collected and paid into the State treasury; the Federal court are applied to; they pronounce the tax unconstitutional; the collection a trespass; the State treasurer a baillee for the claimant, and decree a restitution of the amount. The Legislature of the State enact a law for the punishment of crimes; an individual is convicted under its provisions, and imprisoned in the penitentiary; he complains that the law under which he is convicted is repugnant to the Constitution of the United States; he calls upon the Federal court for redress; the court decide the law to be unconstitutional, the conviction illegal, the keeper of the penitentiary a trespasser, and order the prisoner to be discharged. In such a proceeding they keep the State entirely out of view, and regard it as a mere personal matter; they shut their eyes to the real state of facts, and assert "that the nature and character of the whole transaction forbid the supposition" that the State could have had any agency or concern in the imprisonment. In this manner the States may be placed at the foot of the Federal Judiciary, as well in its administration of its criminal justice as in its fiscal concerns.

In granting an injunction against the Auditor of State, in the first instance, and in awarding an attachment against him for disobedience to that injunction, the federal circuit court in Ohio have unequivocally asserted a jurisdiction over the State and its officers in the collection of revenue. The circumstances under which the attachment was ordered admonish us that the jurisdiction thus asserted will be without reluctance enforced. The auditor will be fined or imprisoned, or both, for executing his official duty; and the State must either acquiesce in the correctness of the proceeding, and avert the consequence, by retracing their

steps, or, regarding it as an encroachment upon their just authority, must prepare to take such a stand against it as the Constitution and a just regard to their rights may warrant.

The committee conceive that the proceeding in this case, by bill in chancery and injunction against the auditor and treasurer, is, to every substantial purpose, a process against the State. The auditor and treasurer are defendants in name and in form only, and can only be made and regarded as defendants to evade the provisions of the Constitution. From the view they have taken of the subject, the conclusion seems inevitable, that the Federal court have asserted a jurisdiction which a just construction of the Constitution does not warrant; and the committee conceive, that to acquiesce in such an encroachment upon the privileges and authority of the State, without an effort to defend them, would be an act of treachery to the State itself, and to all the States that compose the American Union.

The committee are aware of the doctrine, that the Federal courts are exclusively vested with jurisdiction to declare, in the last resort, the true interpretation of the Constitution of the United States. To this doctrine, in the latitude contended for, they never can give their assent.

Every court of justice, where they have jurisdiction over the parties to the suit and the subject of controversy, are, of necessity, invested with power to decide every question upon which the rights of the parties depend; and their decision is conclusive, unless a superior court be invested with jurisdiction to review it. On this subject the powers of the Federal and State judiciary are precisely the same. These powers are not founded upon any express Constitutional provision, but result from the very nature of written constitutions and judicial duty.

Among other things, the Constitution of the United States declares that "no State shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." A defendant, prosecuted for a crime before a State court, may insist that the law upon which he is accused is *ex post facto*. If the State court decide in his favor it is conclusive, because there is no law authorizing the Federal court to review it. If the decision be against him, it is, for the same reason, conclusive. No person can be criminally prosecuted before the Federal courts for the violation of a State law. No appeal or writ of error from the decision of a State court, in a State prosecution, lies to the Federal court. The interpretation of that provision of the Constitution of the United States, which declares that no State shall pass an *ex post facto* law is now exclusively vested in the State courts. Nor can the Federal courts ever be vested, under the Constitution, as it now stands, with effective jurisdiction to interpret and enforce this provision. They cannot be empowered to take the administration of criminal justice from before the State courts, in the incipient stages of a prosecution; and a writ of error after judgment would clearly be a suit at law, in which the State must be defendant,

and would come directly within the terms of the amendment.

In this case, then, the Federal courts cannot now pronounce an effective judicial decision. They cannot possess themselves of jurisdiction over the parties upon whom any decision they might make could operate. Yet individuals may contrive some feigned action, or make some feigned issue, and present to the Federal court for decision a case, calling upon them, and thus empowering them to decide that, upon a particular state of facts, the operation of a State law would be *ex post facto*, within the meaning of the provision of the Constitution of the United States. A decision thus obtained would be entitled to respect as the opinion of eminent men, but never could be regarded as a judicial declaration of the law of the land.

By an express provision of the Constitution of the United States, a provision introduced purposely to effect that object, the States, in any controversies they may have with individuals, are placed beyond the jurisdiction of the Federal courts. It would seem incontrovertible that the amendatory article placed the States and the United States in a relation to each other different from that in which they stood under the original Constitution—different in this: that, in all cases where the States could not be called to answer in the Federal courts, these courts ceased to be a Constitutional tribunal to investigate and determine their power and authority under the Constitution of the United States. The duty of the courts to declare the law terminated with their authority to execute it.

The committee conceive that such is the true, and such is the settled construction of the Constitution; settled by an authority paramount to all others, and from which there can be no appeal—the authority of the people themselves.

So early as the year 1798, the States and the people were called to declare their opinions upon the question involving the relative rights and powers of the Government of the United States and of the Governments of the separate States. In the month of November of that year, the State of Kentucky resolved:

"That the several States comprising the United States of America are not united on the principle of unlimited submission to their General Government; but that, by compact, under the style and title of a Constitution for the United States, and amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving to each State itself the residuary mass of right to their own self-government; and that, whensoever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force; that to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party; that the Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its power; but that, as in all other cases of

compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

In the month of December of the same year, (1798,) the Legislature of Virginia resolved:

"That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights, and liberties appertaining to them."

It cannot be forgotten that these resolves, and others connected with them, were occasioned by the acts of Congress commonly called the alien and sedition laws, and by certain decisions in the Federal circuit courts, recognising the obligatory force of the common law, as applicable to the federal jurisprudence.

The resolutions of Virginia were submitted to the Legislatures of the different States; Delaware, Rhode Island, Massachusetts, the Senate of New York, Connecticut, New Hampshire, and Vermont returned answers to them, strongly reprobating their principle, and all but Delaware and Connecticut asserting that the Federal Judiciary were exclusively the expositors of the Federal Constitution. In the Virginia Legislature, these answers were submitted to a committee, of which Mr. Madison was chairman, and in January, 1800, this committee made a report, which has ever since been considered the true text-book of republican principles.

In that report, the claim that the Federal Judiciary are the exclusive expositors of the Federal Constitution is taken up and examined. The committee say:

"But it is objected that the judicial authority is to be regarded as the sole expositor of the Constitution, in the last resort; and it may be asked for what reason the declaration by the General Assembly, supposing it to be theoretically true, could be required at the present day, and in so solemn a manner?"

"On this objection it might be observed, first, that there may be instances of usurped power, which the forms of the Constitution would never draw within the control of the judicial department; secondly, that if the decision of the judiciary be raised above the authority of the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decisions of that department; but the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases in

which all the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers not delegated may not only be usurped and executed by the other departments, but that the judicial departments also may exercise or sanction dangerous powers beyond the grant of the Constitution; and, consequently, that the ultimate right of the parties to the Constitution, to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority as well as by another, by the judiciary as well as by the executive or legislative."

"However true, therefore, it may be, that the judicial department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the Government; not in relation to the rights of the parties to the Constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve."

The resolutions of Kentucky and Virginia, and of Massachusetts, Rhode Island, the Senate of New York, New Hampshire, and Vermont, in reply, and the answer to these replies by the Legislature of Virginia, were a direct and Constitutional appeal to the States and to the people upon the great question at issue. The appeal was decided by the Presidential and other elections of 1800. The States and the people recognised and affirmed the doctrines of Kentucky and Virginia, by effecting a total change in the administration of the Federal Government. In the pardon of Callender, convicted under the Sedition law, and in the remittance of his fine, the new administration unequivocally recognised the decision and the authority of the States and of the people. Thus has the question, whether the Federal courts are the sole expositors of the Constitution of the United States in the last resort, or whether the States, "as in all other cases of compact among parties having no common judge," have an equal right to interpret that Constitution for themselves, where their sovereign rights are involved, been decided against the pretension of the Federal judges, by the people themselves, the true source of all legitimate powers.

In the opinion of the committee, the high authority of this precedent, as well as the clear right of the case, imposes a duty upon the State, from which it cannot shrink without dishonor. So long as one single Constitutional effort can be made to save them, the State ought not to surrender its rights to the encroaching pretensions of the circuit court.

But justice should ever be held sacred. Pride and resentment are alike poor apologies for perse-

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verance in error. If it were admitted that the proceedings of the Federal court against the State, through its officers, are not warranted by the Constitution, still, if the State has commenced in error, it should abandon the controversy. Before, therefore, we determine upon the course we ought to pursue, it is necessary to review and examine the ground upon which we stand.

The Bank of the United States established an office of discount and deposite at Cincinnati, in this State, which commenced banking in the Spring of the year 1817. The Legislature met in December following, and upon the 13th day of December a resolution was proposed in the House of Representatives, and adopted, appointing a committee to inquire into the expediency of taxing such branches as were or might be established within this State. The committee reported against the expediency of levying such a tax, but the House of Representatives reversed their report by a majority of 37 to 22. A substitute for their report was then offered, asserting the right of the State to levy such a tax, and the expediency of doing it at that time. The Constitutional right of the State to levy such a tax was carried by 48 to 12, and the expediency of proceeding to levy the tax by 33 to 27. A bill assessing a tax was reported to the House, and passed to be engrossed for a third reading and final passage, and, upon the third reading, was postponed to the second Monday of December, 1818.

After this solemn assertion of the right to tax, and when a bill for that purpose was pending before the House of Representatives, the bank proceeded to organize a second office of discount and deposite at Chillicothe, in this State, which commenced banking in the Spring of the year 1818. In January, 1819, the Legislature enacted the law levying the tax, and postponed its execution until the September following, that the bank might have abundant time so to arrange their business as not to come within the provisions of the taxing law.

At the period of adopting these measures, the constitutional right of the State to levy the tax was doubted by none but those interested in the bank, or those who expected to derive pecuniary advantages for themselves or their friends by the location of branches. It seemed impossible that a rational, disinterested, and independent mind could doubt. During the existence of the old Bank of the United States, the State of Georgia had asserted this right of taxation, and actually collected the tax. The bank brought a suit to recover back the money in the federal circuit court of Georgia. This suit was brought before the Supreme Court, upon a question not directly involving the power of taxation. The Supreme Court decided the point before them in favor of the bank, upon such grounds that the suit was abandoned, and the tax submitted to. When the charter of the present bank was enacted, it was known that the States claimed, and had practically asserted, the power of taxing it; yet no exemption from the operation of the power is stipulated by Congress. The natural inference from

the silence of the charter upon this point would seem to be, that the power of the States was recognised, and that Congress were not disposed to interfere with it.

The Constitution of the United States had distinctly expressed in what cases the taxing power of the States should be restrained. No maxim of legal construction is better settled, and more universally acknowledged, than that express limitations of power, either in constitutions or in statutes, are distinct admissions that the power exists, and may be exercised in every other case than those expressly limited. With a knowledge of these facts and doctrines in their minds, that a confidence in the power of the State to levy this tax should be almost universal, is what every intelligent man would expect.

But, after the law was enacted that levied the tax, and before the time of its taking effect, the Supreme Court of the United States, in the case of Maryland and McCulloch, decided that the States were debarred, by the Constitution of the United States, from assessing or levying any such tax. And upon the promulgation of this decision it is maintained that it became the duty of the State and its officers to acquiesce, and treat the act of the Legislature as a dead letter. The committee have considered this position, and are not satisfied that it is a correct one.

It has been already shown that, since the eleventh amendment to the Constitution, the separate States, as parties to the compact of Union, are not subject to the jurisdiction of the Federal courts upon questions involving their power and authority as sovereign States. Not being subject to their jurisdiction, no State can be concluded by the opinions of these tribunals. But these are questions in respect to which there is no common judge, and, therefore, the State has a right to judge for itself. If, by the management of a party, and through the inadvertence or connivance of a State, a case be made, presenting to the Supreme Court of the United States for decision important and interesting questions of State power and State authority, upon no just principle ought the States to be concluded by any decision had upon such a case. The committee are clearly of opinion that such is the true character of the case passed upon the world by the title of *McCulloch vs. Maryland*.

It was once remarked, by a most profound politician, that words are things; and the observation is most unquestionably a correct one. This case, dignified with the important and high-sounding title of "*McCulloch vs. the State of Maryland*," when looked into, is found to be an ordinary *qui tam* action of debt, brought by a common informer, of the name of John James; and it is, throughout, an agreed case, made expressly for the purpose of obtaining the opinion of the Supreme Court of the United States upon the question whether the States could constitutionally levy a tax upon the Bank of the United States. This agreed case was manufactured in the Summer of the year 1818, and passed through the county court of Baltimore county and the court of appeals of the State of Maryland in the same season, so as to be got

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upon the docket of the Supreme Court of the United States for adjudication at their February term, 1819. It is only by the management and concurrence of the parties that causes can be thus expeditiously brought to a final hearing in the Supreme Court.

It must be remembered that, through the extravagant and fraudulent speculations of those intrusted with conducting the concerns of the bank, it stood, at the close of the year 1818, upon the very brink of destruction. At this critical juncture of its affairs, it was a manœuvre of consummate policy to draw from the Supreme Court of the United States a decision that the institution itself was constitutionally created, and that it was exempt from the taxing power of the States. This decision served to prop its sinking credit; and if it inflicted a dangerous wound upon the authority of the States, both with the bank and with John James, this might be but a minor consideration. It is truly an alarming circumstance if it be in the power of an aspiring corporation and an unknown and obscure individual thus to elicit opinions compromising the vital interests of the States that compose the American Union.

It is not, however, either in theory or in practice, the necessary consequence of a decision of the Supreme Court, that all who claim rights of the same nature with those decided by the court are required to acquiesce. There are cases in which the decisions of that tribunal have been followed by no effective consequence.

In the case of *Marbury vs. Madison*, the Supreme Court of the United States decided that William Marbury was entitled to his commission as a justice of the peace for the District of Columbia; that the withholding of this commission by President Jefferson was violative of the legal vested right of Mr. Marbury. Notwithstanding this decision, Mr. Marbury never did obtain his commission; the person appointed in his place continued to act; his acts were admitted to be valid; and President Jefferson retained his standing in the estimation of the American people. The decision of the Supreme Court proved to be totally impotent and unavailing.

So in the case of *Fletcher vs. Peck*, the Supreme Court decided that the Yazoo purchasers from the State of Georgia were entitled to the lands. But the decision availed them nothing, unless as a make-weight in effecting a compromise.

These two cases are evidence that, in great questions of political rights and political powers, a decision of the Supreme Court of the United States is not conclusive of the rights decided by it. If the United States stand justified in withholding a commission when the court adjudged it to be the party's right; if the United States might, without reprehension, retain possession of the Yazoo lands after the Supreme Court decided that they were the property of the purchasers from Georgia, surely the State of Ohio ought not to be condemned because she did not abandon her solemn legislative acts as a dead letter upon the promulgation of an opinion of that tribunal.

This opinion is now before us, and the committee

tee conceive that it is the duty of this General Assembly calmly to examine the principles and reasoning upon which it is founded. Much deference is due to the respectable individuals by whom it was formed, and more to the high station they occupy in the Government. Although their opinion is not admitted to have the force of absolute authority, yet a course of proceeding pronounced by such eminent statesmen and lawyers to be unconstitutional, ought not to be lightly and unadvisedly adopted.

It is not perceived that the power of the State to tax the officers of the Bank of the United States established within their jurisdiction is necessarily connected with the question whether Congress have, or have not, the Constitutional power to create a corporation. This power may safely be admitted, if, at the time of making this admission, we clearly comprehend the principles upon which the corporation is to be instituted.

"A corporation," says Chief Justice Marshall, in the case of *Dartmouth College*, "is an artificial being; invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it, either expressly, or as incidental to its very existence.—These are such as are supposed best calculated to effect the objects for which it was created. Among the most important are immortality, and, if the expression may be allowed, individuality—properties by which a perpetual succession of many persons are considered as the same, and may act as a single individual. They enable a corporation to manage its own affairs, and to hold property without the perplexing intricacies, the hazardous and endless necessity of perpetual conveyances for the purpose of transmitting it from hand to hand. It is chiefly for the purpose of clothing bodies of men, in succession, with these qualities and capacities, that corporations are invented and are in use. By these means a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one immortal being. But this being does not share in the civil government of the country, unless that be the purpose for which it was created. Its immortality no more confers on it political power, or a political character, than immortality would confer such power or character upon a natural person. It is no more a State instrument than a natural person exercising the same powers would be."

To this definition of a corporation, the committee see no reason to object; and when the true character of a private banking company is correctly understood, there seems to be no cogent reason why it may not be incorporated by Congress upon the principles here defined.

Banking, where the capital is owned by an association of individuals, is a private trade, carried on by the individuals constituting the company for their own profit. A mercantile company trade in produce and merchandise; a banking company trade in money, promissory notes, and bills of exchange. Both may carry on their trade without a charter of incorporation; the trade of

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both may be regulated by the law of the State in which they are located; and a charter of incorporation may be conferred upon either, without changing the character of their business, or clothing them with any portion of political power.

It is competent for the Government of the United States to make contracts with an association of individuals as well as with a single person. The Secretary of the Treasury may be authorized to employ an unincorporated banking company to take charge of, and transmit from place to place, the public revenue. For the performance of this service he may stipulate a compensation, but he cannot be authorized to barter a privilege inconsistent with the laws of the State where the company is located, by way of compensation for services to be performed. If such banking association be prohibited by the laws of the State, a contract with the General Government cannot suspend the operation of those laws. If such banking association be subject to State taxation, they cannot be exempted from their responsibility by a contract with the United States. But a capacity to transact its associate concerns in a legal and artificial name; a capacity to exist by perpetual succession, notwithstanding the natural death of the individuals; a capacity to sue, and a liability to be sued, without abatement, by the death of any one of the parties; an exemption from personal responsibility for the company debts, and conferring a separate character upon the company funds, so as to preserve them distinct from the individual property of the members of the company, are not privileges incompatible with State laws. And if investing a private company with these privileges may conduce to the public convenience and the public safety, in making contracts to receive and transmit the public moneys, conceding that Congress are empowered, under the Constitution, to confer these privileges, as a consideration for the performance of the services agreed upon, and for the purposes of public good, cannot possibly compromise the safety of the States. If their charter of incorporation confer upon the Bank of the United States no other privileges than are here enumerated, it is manifest that, in every other respect, their property and business stand upon the same footing with that of other individuals.

It was in this light that a charter incorporating a bank was contemplated by the first founders of the Bank of the United States. The power of establishing themselves where they pleased, without respect to the State authority, was not claimed by the old bank, nor did they arrogate to themselves any federal character, or any privilege which did not appertain to them as individual citizens. No new or extended privileges are conferred by its charter upon the present institution. It is created a private corporation of trade, "as much so as if the franchises were invested in a single person." But it has received its chartered privileges from the Government of the United States, and therefore it is that it is exempt from State taxation.

If the committee have been able to understand the opinion of the Supreme Court, this consequence is deduced from the five following propositions:

1. The Government of the Union, though limited in its powers, is supreme within its sphere of action.

2. It is the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments as to exempt its own operations from their influence.

3. A power to create implies a power to preserve.

4. A power to destroy, if wielded by a different hand, is hostile to and incompatible with, these powers to create and to preserve.

5. Where this repugnancy exists, that authority which is supreme must control, not yield to, that over which it is supreme.

These propositions are plausible and imposing, but, when carefully examined, and applied to the subject under consideration, it is conceived that no one of them can be sustained to the extent here laid down.

At the threshold of the inquiry, we demand what is meant by the assertion that "the Government of the Union is supreme within its sphere of action?" If this observation is applied to a subject where no question of conflicting power arises, its truth may be safely admitted; and the proposition is equally applicable to the States. In the same sense, each State is equally "supreme within its sphere of action." In regulating our foreign trade, the Government of the Union is supreme; and in establishing the modes of conveyance, and the canons of descent, each State is equally supreme. But this proves nothing upon either side, when the relative powers and authorities of the General and State Governments are drawn into discussion.

The power to establish lighthouses, beacons, buoys, and public piers, is within the sphere of action of the Government of the Union; but, in practice, this power has never been considered supreme. It has always been exercised with the assent of the States, and with cessions of territory made by them.

The Cumberland road was laid out and constructed by the Government of the Union; consequently, the power to do it is considered within their sphere of action. Yet this power was not claimed as supreme; it was only exercised with the assent and approbation of the States through which the road was made.

Murder is an offence against all government; yet the Government of the United States cannot punish murder unless it be committed in the Army or Navy, upon the high seas, or within their forts and arsenals, or other places where they exercise exclusive jurisdiction. Except in the cases specified, the murder of an officer of the United States cannot be distinguished from an ordinary homicide. A judge of the federal courts, a marshal, a collector of the revenue, a postmaster, a member of either House of Congress, the President or Vice President, may be murdered, and, if the respective States refuse to interpose their authority to punish the perpetrator, he must escape with impunity. This Government, though supreme within its sphere of action, cannot protect the lives of its

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public functionaries by the punishment of those who may assail them. It can assert no jurisdiction, unless violence be offered to them in their official characters, and in the performance of official duties.

It may be answered to this that the punishment of murder is not within their sphere of action. True. But how futile is it to talk of a Government being supreme, which is not invested with the most common and ordinary mode of preserving its existence. It is supreme over individuals in cases entirely subject to Federal cognizance. But is it supreme over the States? It cannot coerce them either to elect Senators in Congress, or Electors of President and Vice President. A combination between one-half of the States, comprising one-third of the people only, possesses the power of disorganizing the Federal Government, in all its majesty of supremacy, without a single act of violence. It is expressly inhibited by the Constitution, from which this supremacy is derived, from calling the States as defendants before its courts. It cannot save from punishment one single citizen whom the State authorities have condemned. It is neither supreme to save, nor to punish. In what, then, does this supremacy consist, in which the separate States are not also supreme? In one thing only, and that is, the exercise by the Federal courts of appellate jurisdiction in cases, and between parties, made subjects to their jurisdiction by the Constitution. But the States, as parties, are not subject to their jurisdiction, but are expressly exempt from it; and, therefore, over the States and upon questions involving the extent of their powers and authority, the Government of the Union is not supreme. It cannot, according to the hypothesis of the second proposition, remove all obstacles to its action, and so modify the powers of the State governments as to exempt its own operations from their influence.

Is this second proposition sustainable upon any acknowledged principle of Constitutional law? It is certainly a doctrine of portentous import when connected, as it necessarily must be, with the proposition that precedes it: it claims, as an attribute of the Government of the Union, a power to *modify* every power vested in the State governments, so as to remove all obstacles to its own action, and exempt its own operations from their influence.

According to this doctrine, the States are not co-parties to the compact of Union, as asserted in 1798, by the States of Kentucky and Virginia, and established in 1800 by the American people. The rights, powers, and authorities of the States are not immutably established by Constitutional provisions; but are subject to modification, in order to give scope for the action of the Government of the Union.

The two propositions stand in a perfectly natural and logical connexion, though not thus arranged in the opinion: "The Government of the Union, though limited in its powers, is supreme within its sphere of action."

"It is of the very essence of supremacy to *remove* all obstacles to its action within its own

sphere, and so to *modify* every power vested in *subordinate* governments as to exempt its own operations from their influence."

Therefore, we may very properly add the consequent—it is competent for the Government of the Union to remove all obstacles to its action, by so modifying the powers of the State governments as to exempt its own operations from their influence. If the postulates be admitted, this consequent is inevitable.

This result will hardly be contended for in explicit terms; it asserts a supremacy nowhere recognised in the Constitution. The powers retained by the States cannot be modified by the Government of the Union. To modify is to change, or give a new shape to, the power modified; and if the Government of the Union can give a new character to the powers reserved by the States, for the purpose of removing obstacles to their own power of action, there must soon be an end to the State governments. The Government of the Union asserts an exclusive authority in itself to determine its own sphere of action. On this point it is as supreme as upon any other. So soon as it has resolved that the exercise of any power appertains to it, that power assumes the character of supremacy, and removes by modification—puts down before its march—every power previously supposed to be vested in the States that may present any obstacle to its action. Thus, the Government of the Union may, and undoubtedly will, progressively draw all the powers of government into the vortex of its own authority. Against these doctrines the committee conceive that it is the duty of the States to enter their most solemn protest.

The committee do not admit that supremacy is an attribute either of the Government of the Union or of the State governments. Supremacy is an attribute of the people, and an attribute of the laws. In relation to the Governments the people are supreme, and the laws supreme over individuals. Government is but the medium through which the supreme power acts: the Government of the Union is the medium through which the American people act upon particular subjects that concern their interest and their welfare; the governments of the States are the medium through which the same people act upon other subjects, equally interesting and important to them. These two mediums of action are only brought into collision by the usurpations of one or the other. Neither is invested with power to render its encroachments permanent, by a modification of the powers of the other. While moving within its proper limits, neither can present an obstacle to the action of the other: both must proceed harmoniously. In respect to each other, neither is supreme, neither subordinate. The Government of the Union and the governments of the separate States are alike the property and the agencies of the whole American people. This principle is the base and bond of the American Union.

The third proposition is, "that a power to create implies a power to preserve."

As applicable to the Government of the Union

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and the incorporation of the Bank of the United States, this proposition, in the broad sense of its expression, is considered totally inadmissible.

The committee have already attempted to demonstrate that the Bank of the United States is a mere private corporation of trade. Their charter confers upon them neither political character nor political power; it gives them corporate capacity, nothing more. The provision that the bank may establish branches in the States and Territories, when fairly construed, can only be regarded as giving corporate capacity to do so; and this is the only provision of the charter that, by any colorable interpretation, can be understood to vest them with a semblance of political power.

The legal faculty and capacity conferred by the charter, if constitutionally created, are preserved in existence by the very law that originates them. They become private vested rights, and are preserved by the same universal law that protects individual contracts.

But the trade and business of the bank, and the franchises conferred to aid in carrying them on, are separate and distinct matters. To lend money and drive a trade in bills of exchange and gold and silver bullion are not corporate franchises. These trades exist independent of the charter, and may be pursued by individuals without an act of incorporation. It is not the business itself, but the particular method of conducting it, that is created by the act of Congress incorporating the Bank of the United States.

Natural persons are clothed with an original, inherent capacity to make contracts, and to acquire property. In a corporation this capacity is artificial. In other respects, natural persons, and corporations of legal persons, stand upon the same principles. The power of making contracts, enjoyed by individuals, is subject to the regulations of law; the property acquired by individuals is liable to taxation for the support of those laws that originate and protect it. Private corporations of trade, upon every maxim of justice and common sense, are subjected to the same regulations and exactions.

The employments, professions, business, and trade of natural persons may be taxed as such; and laws for this purpose are not considered as violative of individual rights, or as incompatible with the existence and preservation of trade, business, and employments. No just principle is perceived upon which these laws should receive a different interpretation in their application to the trade and business of a private corporation.

According to the definition of a corporation heretofore given, the corporate franchises of the Bank of the United States invest the stockholders with immortality and individuality; with a capacity to act like one immortal being, to perpetuate their existence, to manage their own affairs, to hold property, and transmit it from hand to hand as a natural person could. These franchises are conferred by the Government of the Union to enable the company to conduct the business of lending money, and the trade in bills of exchange and gold and silver bullion, with convenience and security;

but the business and trade to be conducted are not corporate franchises, and are not created by the act of Congress. A tax assessed upon the business of the company does not touch their corporate franchises, however it may affect their convenience or their profit. This power to preserve, as asserted by the court, and applied to the subject before them, is not asserted for maintaining and preserving the corporate franchises of the bank, but for the purpose of giving to these corporate franchises action and employment everywhere, independent of State laws, and beyond the control of State legislation. When fairly traced to its consequences, the doctrine asserted amounts to this: that a corporation created by the Government of the Union is clothed with supreme authority to conduct its business, without respect to the existing laws of the States, and free from any apprehension of those that may be enacted.

A most serious objection to this doctrine is, that it asserts the power to preserve, not as pertaining to the Government of the Union, to be employed or not, at the discretion of Congress, but as incidental to the charter, and to be secured to the company by the judicial power alone.

The committee conceive that the power to create a corporation, and the power to preserve it by special privileges and exemptions, are powers of the same class and description; both are legislative powers, to be conferred or withheld at the discretion of the Legislature; and where a charter of incorporation stipulates no special privileges and exemptions, none can be supposed to exist. "Being the mere creature of law, it possesses only those properties conferred upon it, either expressly, or as incidental to its very existence."

Had Congress intended to exempt the bank from the taxing power of the State as the means of preserving its existence, a provision for that purpose should have been introduced into the charter. The power to make this provision would have been examined before the charter was created, and the intention of Congress would have been manifested. The people and the States would have been apprized of the pretensions of the bank before it got foothold among them, and before it had established a moneyed influence to support itself. Every privilege claimed by the company, when inserted in the charter, has received the sanction of the legislative authority, and is open to the examination of all. But to invest them with unknown and latent privileges to any extent that the Supreme Court may deem convenient, to preserve, not only their corporate franchises, but the most beneficial use of them, is undoubtedly a new doctrine as applied to corporations, and as dangerous as it is novel.

This company have claimed that the States cannot tax their corporate operations, or the profits arising from them; and the Supreme Court have sustained their claim as a privilege necessary to preserve their existence. By their charter, they are authorized to employ officers, clerks, and *servants*. Should the company claim to send slaves into Ohio, and employ them in their branches as *servants*, the committee would conceive the claim as well founded, and as likely to be sustained, as



the exemption from taxation. It stands upon the same principle. If the States may control the company in the employment of servants, they may embarrass its operations, and impede a free and unrestrained exercise and enjoyment of their corporate faculties. By the laws of Ohio, a promise to pay the debt of another is not obligatory unless made in writing; but the charter of the company is silent as to the mode of binding parties that contract with them: they may claim that this law of contracts applies to individuals only, and cannot touch them without narrowing the beneficial use of the faculty conferred upon them by Congress. Who shall say that this claim may not be sustained? In short, who can undertake, with any prospect of success, to enumerate the privileges and exemptions to which, upon this doctrine, the bank are entitled?

It is important to glance at the train of implications with which this doctrine is connected. The power to create the bank implies the power to preserve it. The power to create is itself derived by implication. It is found among the subsidiary powers as incident to the choice of means for the administration of the Government. This implied power to create is made the foundation for further implication; it implies the power to preserve: and again, of necessity, the power to preserve implies a choice in selecting the means of preservation; and upon the doctrine of the court, all these powers are supreme, to the operations of which the constitutions and laws of the States can oppose no obstacle. It is certainly difficult to see the point where these implications terminate, or to name the power which they leave to the States unimpaired.

The Government of the Union have no authority, by the express provisions of the Constitution, to interfere with the law of contracts. They have found authority to institute a bank, or, in other words, to create a private corporation of trade; and with the power to create, they have possessed themselves of power to preserve, not the corporation they have created, but the business in which the corporation have engaged. This business extends over the whole region of contract, either direct, in negotiating loans of money, and purchasing and selling bills of exchange and gold and silver bullion, or indirect, in receiving and disposing of merchandise and real estate, pledged or mortgaged for debts previously contracted. From the aid of this corporation the States may withdraw their law of conveyances; or, as applied to their dealings, the States may introduce provisions regulating contracts, which the corporation may deem obstructions to the enjoyment of their corporate trade. From this doctrine, that the power to create implies the power to preserve, Congress may derive a power to frame a new law of contracts, and devise a new system of conveyances, suitable to the beneficial enjoyment of the trade of this corporation; and this new system, in the supremacy of its action, may disregard both fundamental laws and established maxims of jurisprudence.

The Government of the Union was not insti-

tuted to protect individual rights or to redress individual wrongs; but this power to preserve the trade, business, and property, of a corporation created by themselves, invests them with the power to frame a code of criminal law for the punishment of those who violate the property of the bank, and thus draw into the federal courts the ordinary administration of criminal justice. This is already attempted in the provision for punishing those who counterfeit the notes of the bank, and, upon the doctrine asserted, may be extended to cases of larceny, burglary, or robbery, upon their corporate property. No doctrine has ever yet been advanced that draws to the Government of the Union such a host of powers—none that contains such a potency for “rending into shreds” the authority of the States.

Those who claim for the Government of the Union the power of creating corporations hold that “one may be created in relation to the collection of the taxes, or to the trade with foreign countries, or between the States, or with the Indian tribes; because it is the province of the General Government to regulate those objects, and because it is incident to a general sovereign or legislative power to regulate a thing to employ all the means which relate to its regulation to the best advantage.” The power to create all these corporations, upon the principle asserted, implies the power to preserve them; and the power to preserve implies a power in the Government of the Union to bargain with companies for monopolies of trade and exemptions from taxation; to place such companies above the power of the States, as means employed by themselves, which they have a right to use to the best advantage.

In the discussion of this subject an extraordinary and the most miraculous efficacy is given to the terms “employment of means;” and it is worthy of remark, that no effort is made to explain their true import, or the sense in which they are used. We are told that the collection of taxes, and the safe-keeping and transmission of money from place to place, are an end or object of Government, and that the bank is a convenient means of obtaining this end. But it is not the charter or corporate franchise that is used or employed for this purpose; it is the individuals that compose the company, as an aggregate body, that are thus used; and the corporate franchise bestowed upon them by the Government is conferred to enable them to transact their own business, and perform this service for the Government with greater security and convenience. At this moment the Government of the Union employs the Franklin Bank of Columbus to receive and pay out the public moneys; and, while thus employed, this bank is used as a means of Government; but, being thus used, is not supposed to invest it with any privilege peculiar to the public functionaries.

The Government and all its machinery and officers are but the means of the people for attaining the great ends declared in the preamble to the Constitution. Every person employed under the Constitution, from the President of the United States to the post-boy that carries the mail, par-

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takes of this character of means. The law that the President is bound to see faithfully executed, and the horse that the post-boy rides, are alike, in a certain sense, means of the Government; but, in respect to privileges and exemptions, no man ever supposed them to stand upon the same footing. Those who hold offices directly under the Government may be regarded as principal means; those who are employed by contract, as incidental or subsidiary. The first class compose, as it were, a part of the Government direct, are intrusted with the exercise of some portion of political power, and are clothed with privileges and exemptions attached to their official stations. Those engaged by contract to perform services have no official character, and consequently cannot claim the exemptions attached to public office. Thus, a deputy postmaster is an officer under the Government, invested with privileges, and subject to disabilities attached to his office; but a contractor to carry the mail has no such character; yet both are means used by Government, under the Constitutional authority "to establish post offices and post roads."

The Bank of the United States is not a mean of the Government of the Union in the same sense with the Mint and the Post Office, but in the same sense with contractors to supply public stores, or to carry the mail. The director, assayer, chief coiner, engraver, treasurer, melter, and refiner, of the Mint, are public officers; so are the Postmaster General and deputy postmasters.—They cannot hold their offices and seats in Congress at the same time; they are appointed to and take an oath of office. But the workmen employed in the Mint, like contractors to carry the mail, and the drivers and riders they employ, are not public officers; nevertheless, they are necessary means in the employment of the Government. The stockholders in the Bank of the United States and the president and directors of that institution are not public officers. Even the directors appointed by the Government are destitute of public character. They are eligible to seats in Congress, which is conclusive evidence upon this point; and it is a monstrous doctrine to maintain that corporations created by the Government of the Union, in point of privilege and exemption, are principal means of Government, not to be distinguished from the officers of the Mint and the Post Office, while all the members and officers of such corporations are eligible to seats both in the Congress of the Union and the Legislatures of the several States. By this doctrine, the great principle of separating the departments of Government is completely broken down. Collectors of revenue, officers of the customs, Indian agents, and receivers of public moneys, under the Government of the Union, may become legislators and judges in their own case, both in the General and State Governments. This consequence alone would seem sufficient to expose the unsoundness of the doctrine asserted.

It is singular that, in the very elaborate opinion which the committee have been engaged in examining, no definition should be given of the true

character of the bank, but that, like the terms "employment of means," it should be left to doubtful and various interpretations. It is a public institution, or a private corporation of trade. If the former, with the privileges of office, the corporators must be subject to the disabilities of office. If the latter, like any other individual or bank employed by the Government of the Union, its trade and business must be regulated by State laws, and subject to State exactions. In support of their position that it is a private corporation of trade, the committee can adduce a judicial opinion delivered in the Supreme Court itself: "For instance, (says Mr. Justice Story,) a bank, created by the Government for its own uses, whose stock is exclusively owned by the Government, is, in the strictest sense, a public corporation. So is a hospital, created and endowed by the Government for general charity. But a bank whose stock is owned by private persons is a private corporation, although it is erected by the Government, and its objects and operations partake of a public nature. The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases, the uses may, in a certain sense, be called public, but the corporations are private; as much so, indeed, as if the franchise were vested in a single person."

We have seen that, by the employment of natural persons or State banks to perform those services stipulated to be performed by the Bank of the United States, they become, to a certain extent, means employed by the Government, and yet have never been regarded as public officers, privileged from the operation of State laws. May we not, therefore, paraphrase the language of the Chief Justice, and ask "If, then, a natural person or State bank employed by the Government of the Union to receive, keep, and pay out public moneys, would not become a public officer, or be considered as a member of the civil government, how is it that this artificial being, created by law for the purpose of being employed by the same Government for the same purposes, should become a part of the civil government of the country? Is it because its existence, its capacities, its powers, are given by law? Because the Government has given it the power to take and to hold property, in a particular form, and for particular purposes, has the Government a consequent right (as over all members of the civil government it must have) substantially to change that form, or to vary the purposes to which the property is to be applied? This principle has never been asserted or recognised, and is supported by no authority."

Thus reasoned the judges of the Supreme Court upon the 2d of February, 1819. The case of *McCulloch vs. Maryland* had not then been argued or decided. And the doctrine that the Government, by chartering a private corporation of trade, placed the association upon the same foundation with the Mint and the Post Office, had then never been recognised in a court of law, and was "supported by no authority." If the public character of the Bank of the United States stands upon other found-

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dation than that expressly negatived in these quotations, the committee have been unable to discover it: it is not explained or developed in the opinion that places them on a level with the Mint and the Post Office, and gives to their trade in bills of exchange and gold and silver bullion the same character as to the process of the federal courts.

When the committee deny that "a power to create implies a power to preserve," they are to be understood as denying the application of this principle only to the case of creating corporations. A power to create a public office necessarily implies a power to preserve that office; but a power to bestow a corporate franchise to carry on a private trade is totally different from creating a public office. A distinction between the corporate franchise, and the business to be conducted under it, must be always borne in mind; the power that creates a corporate franchise for private purposes not only can preserve such franchise, but cannot new model or impair it; its corporate character and existence are as secure as the existence and personal rights of a natural person; but its trade and business, like the employments of natural persons, remain subject to regulation by the local authorities where it seeks to locate them. Thus a power in the States to tax, or even to prohibit a trade in bills of exchange and gold and silver bullion, is not a power to destroy the corporate franchises of the Bank of the United States. These corporate franchises remain, notwithstanding the exercise of this power, just as the existence and rights of an individual remain, though his business is taxed, or he is forbidden to engage in certain employments. The Government of the Union has conferred upon the bank certain capacities for engaging in trade, but it has not and cannot confer an absolute right and power to drive this trade in contempt of State laws. It is made capable, but not sovereign; its capacity must be examined, not with a single eye to the supremacy of the power that created it, but with a whole view of what that power could confer, and what it has conferred.

If the committee have succeeded in showing that the power which created the Bank of the United States is not supreme, in the sense of the first two propositions, but is limited in its powers and means of preserving the bank, so as to render the third proposition untenable, the fourth and fifth propositions, which are founded upon, and consequences derived from, the other three, must necessarily be given up. As applied to the question under discussion, however, it has been shown that a power to tax their trade is not a power to destroy the corporation. It is not perceived how a power to diminish the profits of labor and capital, by exacting a portion of their proceeds for the support of Government, can be construed into a power to destroy human life and annihilate capital. The power of taxing the bank is denied, because it might be so used as to prevent the corporation from driving a profitable trade; and this is deemed a power to destroy the charter, which did not originate the trade, but merely created a

facility for conducting it. But what is most singular is this: that, after arriving at this conclusion, an admission is made that at once demolishes the whole doctrine upon which it is founded.

It is conceded that each State may tax the stock owned by its citizens in this bank. Then it is not a public institution, exempt from State taxation, upon the great principle that the States cannot tax the offices, institutions, and operations of the Government of the Union. It is not that the States have no power to tax the bank; but that this power exists only over its capital, and does not extend to its operations. What, then, becomes of all the labored doctrines of the opinion? The Government of the Union, though supreme within its sphere of action, removing all obstacles, and so modifying all powers vested in subordinate Governments as to exempt its own operations from their influence, cannot, after all, preserve what it can create. Those who advance this pretension are compelled to admit, that, upon their own principles, a power to destroy may be wielded by the State Governments.

In its utmost extent, a State tax upon the operations of the bank can produce no other injury than a suspension of its business. By ceasing to trade, a tax upon business can always be avoided. Not so a tax upon capital. Should the States of Pennsylvania, New York, and Massachusetts combine to tax the stock in the Bank of the United States owned by their citizens, to an amount that must consume the annual profits and encroach upon the capital advanced, the destruction of the bank must be inevitable; for this tax upon capital may be exacted, whether it be productive or not. The power of the States to tax the business of the bank is denied upon the broad ground that the power to levy such a tax is tantamount to a power to destroy the bank, and is incompatible with a power in the Government of the Union to create it. Yet this power to tax the capital, though incontestably of greater potency to destroy the institution, is admitted to exist. Between the point decided and the point conceded there is a palpable contradiction, to which sound argument and just conclusions are never subject.

Another very absurd consequence results from the decision and admission, when connected together as they are in the opinion under consideration. A State tax upon the stock or actual capital invested by its citizens in the bank cannot reach or affect the stock owned by foreigners or by the other States; but a tax upon the business operates alike upon all the stockholders. Should Massachusetts tax the stock of her citizens, stock in the bank must be worth less in Massachusetts than elsewhere. Should all the States tax the stock owned by their citizens, stock held by foreigners must be most valuable. Should one State tax the stock so as to exhaust the capital, the citizens of that State must sell out to citizens of other States or to foreigners. Should all the States assess such a tax, the whole stock must be transferred to foreigners, or the bank annihilated. One consequence, therefore, of this admission, may be to throw the institution into the hands of foreigners, when our

Government will exhibit the strange spectacle of a company of foreign bankers regarded as a national institution, and, as such, protected by the Constitution of the Union from any of the burdens to which citizens are subject.

It may be said that this admission was unwarily made, and, upon further consideration, would be retracted as inconsistent with what had been previously decided. But the committee conceive that this explanation is quite unsatisfactory. It has been already stated that the Constitution does, in express terms, declare what subjects shall be exempt from the taxing power of the States. It was felt that indirectly to exempt other subjects was unwarrantable, upon all established principles of interpreting laws and constitutions. This argument was pressed; and, to escape its force, the admission was made, so that evidently it is part of the decision, and, as such, sweeps away the grand pillar upon which the whole decision rested.

If the committee have taken a correct view of the subject, it would seem manifest that, in denying to the States a power to tax private corporations of trade incorporated by the Government of the Union, where no doubt exists of the power to create the incorporation, it becomes necessary to maintain many doctrines of very doubtful character and dangerous tendency; while conceding to them this power involves nothing either doubtful or dangerous. It strips such corporations of all pretensions to be regarded as instruments of Government, in the same sense as the Mint and the Post Office; but it preserves untouched their corporate franchises, and concedes to them every right and privilege which a natural person is entitled to claim. It presents no obstruction to the legitimate action of the Government of the Union, but places it, in the establishment of private corporations of trade, upon the same foundation as in erecting lighthouses and constructing roads.

It is in nothing derogatory to this corporation called the Bank of the United States, nor to the Government of the Union that created it, to place its trade upon the same footing with that of a private citizen employed by the Government. The contractor to transport the mail must use horses and carriages; without them, he cannot comply with his contract. They are means or instruments employed by Government, but they are subject to State taxation, as other property of the same description. This has been a universal practice, and has never been deemed any obstruction to the action of the Government of the Union. The States cannot tax the transportation of the mail without obstructing the action of the Government; but were an association incorporated to transport the mail all over the Union, with capacity to trade in live stock and agricultural products, there can be no doubt but that their private trade and property would be subject to State taxation.

The committee have not deemed it necessary to examine any argument founded upon a supposed abuse of power by the States. As, between States, every argument of this sort is inadmissible, because it may be urged with equal force against

the exercise of any power by either, and concludes to the destruction of all authority. There can be no doubt but the States will at all times be ready to encourage, rather than repress, the introduction and employment of capital within their dominion, where it may probably be of any general advantage. Of this the State authorities are much more competent judges than capitalists, or their agents, at a distance can be. It must always be unwise to force a capital into a country against the sense of those who administer the Government. That the Bank has sustained great losses by sending branches into this State, is now notorious; that their trade and loans have been highly injurious to all the best interests of the State, cannot be disputed. This loss on the one hand, and injury on the other, would have been avoided, had the Bank consulted the authorities of the State instead of holding counsel with money-jobbers and speculators.

The committee have carefully examined the subject, and, without pretending to present it in all the views of which it is susceptible, have urged only those which appear to them most prominent. The result of their deliberations is, that the Bank of the United States is, in their opinion, a mere private corporation of trade, and, as such, its trade and business must be subject to the taxing power of the State.

In considering what course the committee should recommend as proper to be adopted at this time, one point of difficulty has presented itself. It is urged by many that the tax levied and collected is enormous in amount, and, therefore, unequal and unjust. It is readily admitted that this allegation is not entirely unfounded, and all must agree that it does not comport with the character of a State to afford any color to accuse her of injustice. Even in the assertion of a right, it is highly derogatory for a State to act oppressively; and all injustice is oppression. It cannot be doubted but that the tax was levied as a penalty, and that it was not supposed the Bank would venture to incur it. It was an act of temerity in them to do so; and although in this view the tax was justly, and, in the opinion of the committee, legally collected, yet, under all the circumstances of the case, the committee conceive that the State ought to be satisfied with effecting the objects for which the law was enacted.

At this time the Bank can have little object in continuing its branches, except to maintain the point of right, which may not be definitively settled by the controversy. The State, having refused to use the money collected, has no interest but that of character and an assertion of the right. If an accommodation can be effected without prejudice to the rights upon either side, it would seem to be desirable to all parties. With this view, as well as with a view to remove all improper impressions, the committee recommend that a proposition of compromise be made by law, making provision that, upon the Bank discontinuing the suits now prosecuted against the public officers, and giving assurance that the branches shall be withdrawn, and only an agency left to settle

*Ohio—Bank of the United States.*

its business and collect its debts, the amount collected for tax shall be paid, without interest.

But the committee conceive that the General Assembly ought not to stop here. The reputation of the State has been assailed throughout the United States; and the nature of the controversy, and her true course of conduct, have alike been very much misunderstood. It behooves the General Assembly, even if a compromise be effected, to take measures for vindicating the character of the State, and also for awakening the attention of the separate States to the consequences that may result from the doctrines of the federal courts upon the questions that have arisen. And, besides, as it is possible that the proposition of compromise may not be accepted, it is the duty of the General Assembly to take ulterior measures for asserting and maintaining the rights of the State by all Constitutional means within their power.

In general, partial legislation is objectionable; but this is no ordinary case, and may therefore call for and warrant extraordinary measures. Since the exemptions claimed by the bank are sustained upon the proposition that the power that created it must have the power to preserve it, there would seem to be a strict propriety in putting the creating power to the exercise of this preserving power, and thus ascertaining distinctly whether the executive and legislative departments of the Government of the Union will recognise, sustain, and enforce the doctrine of the judicial department.

For this purpose the committee recommend that provision be made by law forbidding the keepers of our jails from receiving into their custody any person committed at the suit of the Bank of the United States, or for any injury done to them; prohibiting our judicial officers from taking acknowledgments of conveyances, where the bank is a party, or when made for their use, and our recorders from receiving or recording such conveyances; forbidding our courts, justices of the peace, judges, and grand juries, from taking any cognizance of any wrong alleged to have been committed upon any species of property owned by the bank, or upon any of its corporate rights or privileges; and prohibiting our notaries public from protesting any notes or bills held by the bank or their agents, or made payable to them.

The adoption of these measures will leave the bank exclusively to the protection of the Federal Government, and its Constitutional power to preserve it in the sense maintained by the Supreme Court may thus be fairly, peaceably, and constitutionally tested. Congress must be called on to provide a criminal code to punish wrongs committed upon it, and to devise a system of conveyances to enable it to receive and transmit estates; and, being thus called on to act, the National Legislature must be drawn to the serious consideration of a subject which the committee believe demands much more attention than it has excited. The measures proposed are peaceable and Constitutional; conceived in no spirit of hostility to the Government of the Union, but intended to bring fairly before the nation great and important questions, which

must one day be discussed, and which may now be very safely investigated.

The committee conclude by recommending the adoption of the following resolutions:

*Resolved by the General Assembly of the State of Ohio,* That in respect to the powers of the Governments of the several States that compose the American Union, and the powers of the Federal Government, this General Assembly do recognise and approve the doctrines asserted by the Legislatures of Kentucky and Virginia in their resolutions of November and December, 1798, and January, 1800, and do consider that their principles have been recognised and adopted by a majority of the American people.

*Resolved, further,* That this General Assembly do protest against the doctrines of the Federal circuit court sitting in this State, avowed and maintained in their proceedings against the officers of State upon account of their official acts, as being in direct violation of the eleventh amendment to the Constitution of the United States.

*Resolved, further,* That this General Assembly do assert, and will maintain, by all legal and Constitutional means, the right of the States to tax the business and property of any private corporation of trade, incorporated by the Congress of the United States, and located to transact its corporate business within any State.

*Resolved, further,* That the Bank of the United States is a private corporation of trade, the capital and business of which may be legally taxed in any State where they may be found.

*Resolved, further,* That this General Assembly do protest against the doctrine that the political rights of the separate States that compose the American Union, and their powers as sovereign States, may be settled and determined in the Supreme Court of the United States, so as to conclude and bind them in cases contrived between individuals, and where they are, no one of them, parties direct.

*Resolved, further,* That the Governor transmit to the Governors of the several States a copy of the foregoing report and resolutions, to be laid before their respective Legislatures, with a request from this General Assembly that the Legislature of each State may express their opinion upon the matters therein contained.

*Resolved, further,* That the Governor transmit a copy of the foregoing report and resolutions to the President of the United States, and to the President of the Senate and Speaker of the House of Representatives of the United States, to be laid before their respective Houses, that the principles upon which this State has, and does proceed, may be fairly and distinctly understood.

HOUSE OF REPRESENTATIVES, Dec. 28, 1820.

The foregoing report approved, and resolutions adopted.—Attest:

WM. DOHERTY,  
Clerk House of Rep's.

IN SENATE, January 3, 1821.

Report and resolutions concurred in.

Attest: RICHARD COLLINS,  
Clerk of the Senate.

*Military Peace Establishment.***MILITARY PEACE ESTABLISHMENT.**

[Communicated to the House, December 12, 1820.]

WAR DEPARTMENT, Dec. 12, 1820.

SIR: In obedience to a resolution of the House of Representatives, of the 11th of May last, "directing that the Secretary of War report to this House, at the commencement of the next session, a plan for the reduction of the Army to six thousand and non-commissioned officers, musicians, and privates, and preserving such parts of the corps of engineers, as in his opinion, without regard to that number, it may be for the public interest to retain; and also what saving of the public revenue will be produced by such arrangement of the Army as he may propose in conformity with this resolution," I have the honor to make the following report:

I deem it proper, before a plan is presented in detail for reducing the Army, as proposed in the resolution, to state briefly the general principles on which it is conceived our Military Peace Establishment ought to be organized. It will be readily admitted, that the organization of the Army ought to have reference to the objects for which it is maintained, and ought to be such as may be best calculated to effect such objects; as it must be obvious, on the slightest reflection, that on considerations connected therewith ought to depend, not only its numbers, but also the principles on which it ought to be formed.

The necessity of a standing army in peace is not believed to be involved in the subject under consideration, as the resolution presupposes the propriety of maintaining one; and, in fact, its necessity is so apparent, that even those least friendly to the Army have never attempted to abolish it, or even to reduce it, since the late war, much below the number proposed in the resolution. The objects for which a standing army in peace ought to be maintained, may be comprised under two classes: those which, though they have reference to a state of war, yet are more immediately connected with its duties in peace, and those which relate immediately and solely to war. Under the first class may be enumerated, as the leading objects, the garrisoning of the forts along our Atlantic frontier, in order to preserve them, and to cause the sovereignty of the United States to be respected in their immediate neighborhood, and the occupying of certain commanding posts on our inland frontier, to keep in check our savage neighbors, and to protect our newly formed and feeble settlements in that quarter. These are, doubtless, important objects, but are by no means so essential as those which relate immediately and solely to a state of war; and though not to be neglected wholly, ought not to have any decided influence in the organization of our Peace Establishment. Without, therefore, making any farther remark on this point of the inquiry, I will proceed to consider the other class, on which, as it comprises the great and leading inducements to maintain in this country a regular army in peace, the prominent features of its organization ought to depend.

However remote our situation from the great

Powers of the world, and however pacific our policy, we are, notwithstanding, liable to be involved in war; and, to resist with success its calamities and dangers, a standing army in peace, in the present improved state of the military science, is an indispensable preparation. The opposite opinion cannot be adopted, without putting to hazard the independence and safety of the country. I am aware that the militia is considered, and in many respects justly, as the great national force; but, to render them effective, every experienced officer must acknowledge that they require the aid of regular troops. Supported by a suitable corps of trained artillerists, and by a small but well disciplined body of infantry, they may be safely relied on to garrison our forts, and to act in the field as light troops. In these services their zeal, courage, and habit of using fire-arms, would be of great importance, and would have their full effect. To rely on them beyond this—to suppose our militia capable of meeting in the open field the regular troops of Europe—would be to resist the most obvious truth, and the whole of our experience as a nation. War is an art, to obtain perfection in which much time and experience, particularly for the officers, are necessary. It is true, that men of great military genius occasionally appear, who, though without experience, may, when an army is already organized and disciplined, lead it to victory; yet I know of no instance, under circumstances nearly equal, in which the greatest talents have been able, with irregular and undisciplined troops, to meet with success those that were regularly trained. Genius, without much experience, may command, but it cannot go much further. It cannot at once organize and discipline an army, and give it that military tone and habit which only, in the midst of imminent danger, can enable it to perform the most complex evolutions with precision and promptitude. Those qualities which essentially distinguish an army from an equal assemblage of untrained individuals, can only be acquired by the instruction of experienced officers. If they, particularly the company and regimental officers, are inexperienced, the Army must remain undisciplined; in which case the genius, and even the experience of the commander, will be of little avail. The great and leading objects, then, of a Military Establishment in peace, ought to be to create and perpetuate military skill and experience; so that at all times the country may have at its command a body of officers sufficiently numerous, and well instructed in every branch of duty, both of the line and staff; and the organization of the Army ought to be such as to enable the Government, at the commencement of hostilities, to obtain a regular force, adequate to the emergencies of the country, properly organized and prepared for actual service. It is thus only that we can be in the condition to meet the first shocks of hostilities with unyielding firmness, and to press on an enemy while our resources are yet unexhausted. But if, on the other hand, disregarding the sound dictates of reason and experience, we should in peace neglect our Military Establishment, we must, with a powerful and skilful ene-

*Military Peace Establishment.*

my, be exposed to the most distressing calamities. Not all the zeal, courage, and patriotism of our militia, unsupported by regularly trained and disciplined troops, can avert them. Without such troops, the two or three first campaigns would be worse than lost. The honor of our arms would be tarnished, and the resources of the country uselessly lavished; for, in proportion to the want of efficiency, and a proper organization must, in actual service, be our military expenditures. When taught by sad experience, we would be compelled to make redoubled efforts with exhausted means, to regain those very advantages which were lost for the want of experience and skill. In addition to the immense expenditure which would then be necessary, exceeding manifold what would have been sufficient to put our Peace Establishment on a respectable footing, a crisis would be thus brought on of a most dangerous character. If our liberty should ever be endangered by the military power gaining the ascendancy, it will be from the necessity of making those mighty and irregular efforts to retrieve our affairs, after a series of disasters, caused by the want of adequate military knowledge; just as, in our physical system, a state of the most dangerous excitement and paroxysm follows that of the greatest debility and prostration. To avoid these dangerous consequences, and to prepare the country to meet a state of war, particularly at its commencement, with honor and safety, much must depend on the organization of our Military Peace Establishment; and I have, accordingly, in the plan about to be proposed for the reduction of the Army, directed my attention mainly to that point, believing it to be of the greatest importance.

To give such an organization, the leading principle in its formation ought to be, that, at the commencement of hostilities, there should be nothing either to new-model or to create. The only difference, consequently, between the peace and the war formation of the Army, ought to be in the increased magnitude of the latter; and the only change, in passing from the former to the latter, should consist in giving to it the augmentation which will then be necessary.

It is thus, and thus only, the dangerous transition from peace to war may be made without confusion or disorder; and the weakness and danger, which otherwise would be inevitable, be avoided. Two consequences result from this principle: First, the organization of the staff in a Peace Establishment ought to be such that every branch of it should be completely formed, with such extension as the number of troops and posts occupied may render necessary; and, secondly, that the organization of the line ought, as far as practicable, to be such that, in passing from the peace to the war formation, the force may be sufficiently augmented, without adding new regiments or battalions; thus raising the war on the basis of the Peace Establishment, instead of creating a new army to be added to the old, as at the commencement of the late war. The next principle to be observed is, the organization ought to be such as to induce, in time of peace, citizens of

adequate talents and respectability of character to enter and remain in the military service of the country, so that the Government may have officers at its command, who, to the requisite experience, would add the public confidence. The correctness of this principle can scarcely be doubted, for, surely, if it is worth having an army at all, it is worth having it well commanded.

These are the general principles upon which I propose to form the organization of the Army, as proposed to be reduced under the resolution. By reference to tables A and B, which contain the proposed and present organizations, it will be seen that the principal difference between them is in the reduction of the rank and file. The present organization of the staff, with its branches, is retained, with slight alterations. The principal changes in it are, in that of the Commissary General of Purchases, and the Judge Advocates, by which it is intended that they should conform more exactly to the principles on which the other branches are now formed. It is believed that the true principle of its organization is, that every distinct branch of the staff should terminate in a chief, to be stationed, at least in peace, near the Seat of Government, and to be made responsible for its condition. It is thus that the Government may at all time obtain correct knowledge of the condition of the Army in every particular, and be enabled to introduce method, order, and economy, in its disbursements. It is, at present, with slight exceptions, thus organized, and the beneficial effects of it have already been strikingly exemplified by experience. Since the passage of the act of the 14th of April, 1818, which gave the present organization to the staff, the expense of the Army has been greatly reduced, while, at the same time, the various articles supplied have been improved in quality, and the punctuality with which they have been issued; and while the movements of the Army have, at least for the present, been rendered more expensive by occupying the distant frontier posts at the mouth of the St. Peter's and at the Council Bluffs. By a statement from the Adjutant and Inspector General, and the books of the Second Auditor, marked C, containing the Army disbursements from 1818 to 1820 inclusive, it appears that the expense of the Army in 1818, the year in which the present organization commenced, amounted to three millions seven hundred and forty-eight thousand four hundred and forty-five dollars and one cent, while the amount of warrants issued for current disbursements to the first of November this year, has amounted only to two millions six hundred and sixteen thousand five hundred and twenty-six dollars and eleven cents, and the disbursements of the whole year will, probably, not exceed two millions seven hundred thousand dollars. In the year 1818, the aggregate average number of the Military Establishment, including the cadets, amounted to eight thousand one hundred and ninety-nine, and that of this year to nine thousand six hundred and eleven. It is admitted that, during the same period, a considerable reduction has taken place in many of the articles which

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constitute the supplies of the Army, the effect of which has been to reduce its expense; but, on examination, it will appear that the diminution on this account is much less than what on the first impression might be supposed. Many of the more considerable items, which constitute the expenses of the Army, are fixed by law, and do not fluctuate with the change of prices, such as the pay of the officers and men, the subsistence of the former, and the allowance to them for servants, forage, transportation of baggage, &c. All of the items estimated for, by the Paymaster General, excepting clothing for servants, which is of small amount, partake of this character; to which, if we add those in the Quartermaster General's estimates, which, although the price of some of them have in the period under consideration been reduced, yet that has been at least balanced in the increased expenditure of that department for the last two years, by the extension and increased number of the military posts; it will result, that the reduction in the expense of the Army by the diminution of prices is substantially confined to the clothing, medical, and subsistence departments. Some pains have been taken to ascertain this diminution, in the various articles supplied by them, and it has resulted in the belief, that the average of these supplied by the clothing and medical departments were, in the year 1818, about seven per cent. higher than in this, and in the subsistence about forty per cent. With these data, it is ascertained, that the expense of the Army this year, had no diminution in price since 1818 taken place, would have amounted, deducting for the difference of the average number of the two years, and allowing for the expenditure of the Seminole war in 1818, to about two millions seven hundred and ninety-one thousand, and thirty-eight dollars and fifty-five cents. This sum, deducted from three millions seven hundred and forty-eight thousand four hundred and forty-five dollars and one cent, the expense of the Army in 1818, gives for the actual saving, after allowing for the diminution of prices, the sum of nine hundred and fifty-seven thousand three hundred and fifty-six dollars and forty-six cents, (see table D,) which has been effected through the organization of the present staff, by enabling the department to superintend, in its minute details, as well the various disbursements of the Army, as the measures taken to prevent the waste of public property. The amount of saving may appear to be very great, but it is confidently believed, that it cannot be materially reduced by any just mode of calculation of which the subject is susceptible.

As great as this result is, it is only in war that the benefits of a proper organization of the staff can be fully realized. With a complete organization, and experienced officers, trained in time of peace to an exact and punctual discharge of their duty, the saving in war (not to insist on an increased energy and success in our military movements) would be of incalculable advantage to the country. The number of deputies and assistants in each branch ought to be regulated by the exigency of the service, and this must obviously de-

pend much more on the number of posts than on the number of troops; and as no material change can, consistently with the public interest, be made as to the posts, under the proposed reduction, little diminution can be made in the number of subordinate officers belonging to the staff.

It is also proposed to retain the two major and four brigadier generals. Although it is not probable that there will be concentrated, in time of peace, at any one point, a force equal to the command of a single major, or even a brigadier general, yet it is conceived that it is important to the service that they should be retained. As two regiments, with a proper proportion of artillery and light troops, constitute, in our service, one brigade, and two brigades a division, the command of a major general, the number of regiments and battalions, under the proposed organization, thus gives a command equal to that of two major and four brigadier generals. But a more weighty, and, in my opinion, decisive reason, why they should be retained, may be found in the principle already stated, that the organization of the Peace Establishment ought to be such as to induce persons of talent and respectability to enter and continue in the military service. To give to the officer of the Army the necessary skill and equivalents, the Military Academy is an invaluable part of our Establishment; but that alone will be inadequate. For this purpose, respectability of rank and compensation must be given to the officers of the Army. Every prudent individual, in selecting his course of life, must be governed, making some allowance for natural disposition, essentially by the rewards which attend the various pursuits open to him. Under our free institutions, every one is left free to make his selection; and most of the pursuits of life, followed with industry and skill, lead to opulence and respectability. The profession of arms, in the well established state of things which exists among us, has no reward but what is attached to it by law; and if that should be inferior to other professions, it would be idle to suppose individuals, possessed of the necessary talents and character, would be induced to enter it. A mere sense of duty ought not, and cannot, be safely relied on. It supposes that individuals would be actuated by a stronger sense of duty towards the Government than the latter towards them.

If we may judge from experience, it would seem that the Army, even with these important commands, which, from their rank and compensation, must operate strongly on those who have a military inclination, does not present inducements to remain in it, stronger than, nor even as strong as, those of most of the other respectable pursuits of life.

The number of resignations has been very great, of which many are among the most valuable officers. Should the number of generals be reduced, the motive for entering or continuing in service must also be greatly reduced; for, like the high prizes in a lottery, though they can be obtained by a few only, yet they operate on all those who adventure; so those important stations which



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they occupy are, with those the best qualified to serve their country, the principal motive to enter or remain in the Army. To retain them is, in fact, the cheapest mode of commanding such talents; for, to pursue the metaphor, if the high prizes were distributed among all of the tickets, there would be but few adventurers; so, if the compensation attached to the general officers were distributed proportionably among the other officers, the inducement which the Army now holds out for a military profession, to individuals of suitable character, would be almost wholly lost. If the generals were reduced to one major and two brigadiers, the saving would not exceed \$14,432 annually, which, distributed among the officers in proportion to their pay, would give to a lieutenant but \$25 59 additional pay, and to a captain \$30 87 annually, a sum too inconsiderable to have much effect.

I will proceed next to make a few remarks on that portion of the organization which proposes to reduce the rank and file, without a correspondent reduction of the battalions and regiments. By a reference to statement A, it will be seen that it is proposed to add the rifle regiment to those of the infantry, and unite the ordnance and light and heavy artillery, into one corps of artillery, which, when thus blended, to form nine regiments of infantry, and five battalions of artillery, from the latter of which the corps of ordnance is to be taken, to consist of one colonel, one lieutenant colonel, two majors, seven captains, and as many lieutenants as the President may judge necessary. This organization will require all the officers of the line of the present Army to be retained.

No position connected with the organization of the Peace Establishment is susceptible of being more rigidly proved, than that the proportion of its officers to the rank and file ought to be greater than in a War Establishment. It results immediately from a position, the truth of which cannot be fairly doubted, and which I have attempted to illustrate in the preliminary remarks, that the leading object of a regular army in time of peace ought to be, to enable the country to meet, with honor and safety, particularly at the commencement of war, the dangers incident to that state; to effect this object, as far as practicable, the peace organization ought, as has been shown, to be such, that, in passing to a state of war, there should be nothing either to new-model or to create; and that the difference between that and the war organization ought to be simply in the greater magnitude of the latter. The application of this principle has governed in that portion of the formation of the proposed Military Establishment now under consideration. The companies, both of the artillery and infantry, are proposed to be reduced to their minimum peace formation, the former to consist of sixty-four privates and non-commissioned officers, and the latter of thirty-seven, which will give to the aggregate of both corps, thus formed, six thousand three hundred and sixteen non-commissioned officers, musicians, and privates. Without adding a single officer, or a single company, they may be augmented, should

a just precaution, growing out of foreign relations, render it necessary, to eleven thousand five hundred fifty-eight; and, pending hostilities, by adding two hundred and eighty-eight officers, the two corps, on the maximum of the war formation, may be raised to the respectable force of four thousand five hundred and forty-five of the artillery, and fourteen thousand four hundred and ninety of the infantry, making in the aggregate nineteen thousand and thirty-six officers, non-commissioned officers, and privates. The war organization, thus raised on the basis of the Peace Establishment, will bring into effective operation the whole of the experience and skill of the latter, which, with attention, would, in a short period, be communicated to the new recruits, and the officers recently appointed, so as to constitute a well disciplined force. Should the organization of full companies, on the contrary, be adopted for the Peace Establishment, this process could be carried to a very limited extent. Six thousand men so organized can be augmented on the full War Establishment only to nine thousand one hundred and fifteen by doubling the battalions. Any additional force, beyond that, must be obtained by adding new regiments and battalions, with all the disadvantages of inexperience in the officers and men, without the means of immediate instruction. This was the fatal error at the commencement of the late war, which cost the country so much treasure and blood. The Peace Establishment which preceded it was very imperfectly organized and did not admit of the necessary augmentation; nor did the Government avail itself of even its limited capacity in that respect. The forces raised were organized into new corps, in which, consequently, every branch of military duty was to be learned by the officers as well as men. But, with all these disadvantages, the experience and discipline of the old establishment was of immense use, and has not been duly appreciated. The officers belonging to it gradually diffused their military knowledge through the Army, and contributed much to the brilliant results of the campaign of 1814. For the truth of this assertion, I might with confidence appeal to those officers who then acquired so much glory for themselves and their country.

Another reason remains to be urged, why, in the peace establishment, the number of officers ought to be great compared with the actual force. At the commencement of war an adequate number of experienced officers is of greater importance than that of disciplined troops, even were it possible to have the latter without the former; for it is not difficult to form in a short time well disciplined troops by experienced officers, but the reverse is impossible. The qualifications of the officers are essentially superior to those of the soldiers, and are more difficult to be acquired. The progress of military science has not added much to the difficulty of performing the duty of the soldier, or of training him, but it has greatly to that of the officer. No Government can, in the present improved state of military science, neglect with impunity to instruct a sufficient number of

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its citizens in a science indispensable to its independence and safety, and to perfect which instruction, it is necessary that some portion of them (the number to be regulated by the resources of the country and its relation with other Governments) should make arms their profession.

I have thus presented an organization which I deem the most effective, and which, in the future exigencies of the country, may be of the utmost importance. A different one, requiring for the present an expenditure something less than that proposed, might, in some respects, be more agreeable at this moment; but, believing that nothing in our situation or in our relation with other Powers, however pacific at this time, can give a certain assurance of uninterrupted peace, a state which may exist in the imagination of the poet, but which no nation has yet had the good fortune to enjoy, I have deemed it my duty to present that organization which will most effectually protect the country against the calamities and dangers of any future contest in which it may be our misfortune to be involved.

Economy is certainly a very high political virtue, intimately connected with the power and the public virtue of the community. In military operations, which, under the best management, are so extensive, it is of the utmost importance; but, by no propriety of language can that arrangement be called economical, which, in order that our Military Establishment in peace should be rather less expensive, would, regardless of the purposes for which it ought to be maintained, render it unfit to meet the dangers incident to a state of war.

With a single observation, which was omitted in its proper place, I will conclude my remarks. The plan proposed for the reduction of the Army gives six thousand three hundred and sixteen non-commissioned officers, musicians, and privates, instead of six thousand, the number fixed in the resolution. It was found difficult to form an organization on proper principles, which would give that precise number, and, as the difference was not deemed very material, I have ventured to deviate to that extent from the terms of the resolution.

I have the honor to be, &c.,

J. C. CALHOUN.

Hon. JOHN W. TAYLOR,

*Speaker of the House of Representatives.*

#### REPORT ON FORTIFICATIONS.

[Communicated to the House, February 15, 1821.]

DEPARTMENT OF WAR,

February 12, 1821.

SIR: In compliance with a resolution of the House of Representatives of the 9th instant, directing "that the Secretary of War report to that House the progress which has been made by the Board of Engineers, in determining the sites and plans of fortifications of the coast of the United States; the sites which may have been selected;

the estimates of the expense in completing the several works; the number of troops necessary to garrison them in peace and in war; the progress made in erecting the fortifications; the advantages resulting from the system when completed, particularly in reducing the expense of defending the Atlantic frontier;" I have the honor to enclose a report of the Board of Engineers, marked A, and a report of the Engineer Department, marked B, which give the information required by the resolution.

It may be proper to observe that the projected fortifications have been distributed into three classes, according to their relative importance, and that it is determined to erect those of the first class, previous to the commencement of the second and third classes, with the exception of the works at Mobile Point and Dauphin Island. These works were commenced in preference to those projected at Bayou Bienvenue, and Fort St. Philip; for, although the latter are placed in the first class, it was not however deemed proper to commence with them, as they were much less extensive than the two former, and could be completed in a short time, should the state of our relations with other Powers render it necessary.

The contractors for the works at the Rigolets were, by the arrangements with them, to have erected those contemplated at Chef Menteur, but so many impediments have been encountered, that it has been necessary for them to confine their operations wholly to the former.

I have the honor to be your obedient servant,  
J. C. CALHOUN.

Hon. JOHN W. TAYLOR,

*Speaker of the House of Representatives.*

CITY OF WASHINGTON,

February 7, 1821.

SIR: The following summary of the operations of the Board of Engineers, called for by your order, is respectfully submitted:

The commission charged with reconnoitering the frontiers of the United States has completed the three most important sections of the maritime boundaries, viz: The coast of the Gulf of Mexico, the coast between Cape Hatteras and Cape Cod, and the coast between Cape Cod and the River St. Croix. The coast between Cape Hatteras and Cape Fear has likewise been surveyed; and the only section which remains to be examined, to complete the reconnoissance of the coast, is South Carolina and Georgia.

The reports presented in 1818, 1819, 1820, and 1821, to the Hon. Secretaries of the War and Navy Departments, were accompanied by every necessary plan, table, &c., and embrace every naval and military consideration, both as to the attack, and as to the defence of the frontier, as to fixing the sites for the great naval depots, and as to protecting, by the general system of defence, the general system of internal navigation. We must refer to the details of these reports to show the importance of establishing a complete system for the protection of the frontiers, and the neces-

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sity of building this system upon principles harmonizing with the modern system of warfare. It will be seen that most of the existing forts only defend single points, and satisfy only a few essential conditions; and that they have not been planned with a view to the defence of the frontiers, considered as one great and combined system, whose several parts should be connected and should mutually support each other. The navy yards (excepting that of Charlestown near Boston) have all been improperly placed; the conveniences for the erection of the necessary establishments having alone been taken into consideration, while all other requisites for points so important, such as security against attack by sea or land, facility of receiving all kinds of building materials in time of war as well as in time of peace, vicinity to a place of rendezvous, have been overlooked.

A defensive system for the frontiers of the United States is therefore yet to be created; its bases are, first, a navy; second, fortifications; third, interior communication by land and water; and, fourth, a regular army and well organized militia; these means must all be combined so as to form a complete system.

The navy must, in the first place, be provided with proper establishments for construction and repair, harbors of rendezvous, stations, and ports of refuge. It is only by taking into view the general character, as well as the details, of the whole frontier, that we can fix on the most advantageous points for receiving these naval depots, harbors of rendezvous, stations, and ports of refuge.

On these considerations, Burwell's bay, in James river, and Charlestown, near Boston, have been especially recommended by the commission, as the most proper sites for the great naval arsenals of the South and of the North. Hampton Roads and Boston Roads as the chief rendezvous, and Narraganset bay as an indispensable accessory to Boston Roads. (See reports of 1819 and 1820.)

It is also from an attentive consideration of the whole maritime frontier, of the interior, and of the coastwise navigation, that Mobile bay on the Gulf of Mexico, St. Mary's in the Chesapeake, the Delaware, New York bay, Buzzard's bay, New London, Marblehead, Portsmouth, Portland, the mouths of the Kennebeck and Penobscot, and Mount Desert bay, have been fixed upon as stations and ports of refuge, as necessary and essential to our merchant vessels as to our navy.

Smithville and Beaufort, North Carolina; Annapolis and Baltimore, Maryland; New Haven, Connecticut; Salem, in Massachusetts; and Wiscasset, in Maine, have likewise been examined with attention, with a view to secure them from attack by sea or land. (See reports of 1819, 1820, and 1821.)

St. Mary's river and Savannah, in Georgia; Beaufort, Charleston, and Georgetown, in South Carolina, will be examined and surveyed in the course of this year.

After determining the general and connected system of naval depots, harbors of rendezvous, stations, and ports of refuge, the commission, in the next place, traced the scheme of fortifications

necessary to protect this system, and at the same time to guard the whole frontier against invasion. The forts projected by the commission for this purpose satisfy one or more of the following conditions:

1. To close important harbors to an enemy and secure them to the navy of the country.

2. To deprive an enemy of strong positions, where, protected by his naval superiority, he might fix permanent quarters in our territory, maintain himself during the war, and keep the whole frontier in perpetual alarm.

3. To cover our great cities against attack.

4. To prevent as much as possible the great avenues of interior navigation from being blockaded by a naval force at their entrance into the ocean.

5. To cover the coastwise and interior navigation, and to give to our navy the means necessary for protecting this navigation.

6. To cover the great naval establishments.

A rapid review of the works which have been projected by the commission, will exhibit, with sufficient distinctness, the advantages which must result from their construction.

In Louisiana, the forts projected at the Turn of Plaquemines, at the Bayou Bienvenue, at the Chef Menteur, at the Rigolets, form altogether a system of defence, not only covering New Orleans, but preventing an enemy from taking and holding his position at the northern point of the Delta of the Mississippi, where, presenting a small front, easily fortified in a few days, and impossible to turn, he might defy all the forces of the West. Supposing even that he were expelled from it, he might, in his retreat, pillage and burn all the habitations, and carry off the slaves from both sides of the river for a length of one hundred and fifty miles. This whole projected system of works will cost a little more than \$1,000,000; a sum small indeed to avert such calamities, and which bears no sort of proportion to the effects which it will produce. The fortifications projected at the mouth of Mobile bay, prevent as far as practicable its blockade, secure the communication of the Tombigbee and Alabama with the ocean, as well as that which is proposed to connect these rivers with the Tennessee; protect also the communication between Mobile bay and Lake Pontchartrain by the interior channel, lying between the main and the chain of islands bounded by Cat island to the west, and Dauphin island to the east, and deprive an enemy of a station whence he might act either against New Orleans, or the establishments which the United States may form hereafter in Pensacola. At present, Fort Boyer, at Mobile Point, which could not hold out three days against a regular attack, and Fort St. Philip, which is much too small and weak to defend the Mississippi, are the only protection to Louisiana.

The forts which will be projected at St. Mary's river and Savannah, in Georgia; Beaufort, Charleston, and Georgetown, in South Carolina, will have for object to secure the communication between the sea and the interior, to prevent the blockade of the rivers and harbors of these States, to secure

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naval stations, necessary in guarding the coasting trade, and to cover the great commercial cities against attack by land or sea.

The forts of Smithville and Beaufort, North Carolina, will have for object to close the only two important issues by which the interior of that State communicates with the ocean; they defend the access to the interior navigation, which, sooner or later, will be opened between the Chesapeake and Cape Fear river, and which, by means of canals, will secure in time of war the arrival of naval approvisionnements at the maritime depot of Burwell's bay, while in time of peace it will give to the commerce of the country in general, and of North Carolina in particular, great facilities for avoiding the dangerous and difficult navigation of Albemarle and Pamlico Sounds.

In the Chesapeake the projected works at the entrance of Hampton Roads, have for object to close this road against an enemy, and to secure it to the United States; to secure the interior navigation between the Chesapeake and the more southern States; to make sure of a naval place of arms, where the Navy of the United States may protect the Chesapeake, and the coasting trade; to cover the public docks, &c. at Norfolk, and those which may be established in James river; and to prevent an enemy from making a permanent establishment at Norfolk.

While on this subject we will observe, that an enemy might land in Lynnhaven Bay, and, in one day's march, reach the narrow position which lies to the east of Suffolk: bounded on one side, by the Dismal Swamp, and, on the other, by Bennett's creek, near the mouth of the Nansemond, this position cannot be turned, and may easily be fortified. An enemy might there defy all the forces of Virginia and North Carolina. Secure of a retreat as long as his fleet occupied Hampton Road, he would compel the United States to make the greatest possible sacrifices, both in men and money, before he could be driven out. But, if Hampton Road is fortified, he will only be able to anchor in the open road of Lynnhaven Bay: his march thence upon Suffolk may be turned by our forces crossing at Hampton Road, and he will, therefore, find it impossible to take permanent quarters in the country. The expense at which these results will be obtained, is \$1,800,000; a trifling sum if compared with the magnitude of the advantages which will be procured, and the evils which will be averted.

At Baltimore the forts projected at Hawkins' Point, and on the shoal of Soeller's Point, cover the harbor; and the last mentioned work will force an enemy to land, if he intends attacking the town, at a greater distance from it, and will thus prevent him from turning the defensive position which our forces might take against him. The batteries of St. Mary's secure a good station to the vessels of war charged with guarding the Chesapeake; protect an anchorage accessible by vessels of the largest class; and, as do also the batteries at Annapolis, offer a safe asylum to merchant vessels which might find it impossible to reach Baltimore. St. Mary's is not at all defended, and Fort McHenry at Baltimore has no influence

whatever over an attack by land, and cannot even secure the city and harbor from bombardment.

In the Delaware, the fort on the Pea Patch Island, and the one on the Delaware shore opposite, defend the water passage as far below Philadelphia as localities will permit; they force an enemy to land forty miles below the city to attack it by land, and thus afford time for the arrival of succors; they secure to the forces of the country successive defensible positions, where part may delay an enemy, while part file upon his flank, or cross the river in his rear, and cut him off from his fleet. At present, Fort Mifflin, seven miles below the city, is the only obstacle an enemy would encounter: he might, therefore, land very near the city, and attack it within a few hours of his landing. The two projected forts will also have the advantage of covering the canal destined to connect the Chesapeake with the Delaware, if the junction of the canal be, as in all probability it must be, to the north of the Pea Patch.

The projected works on the waters of the Hudson and East rivers have for object to cover the city of New York against an attack by land or sea; to protect its numerous shipping; to prevent, as much as possible, the blockade of that immense river, which will soon have added to the wealth of its own shores the productions of the boundless regions on the northern and western lakes; and to cover the interior navigation which is projected to connect the waters of the Delaware with those of the bay of New York, by a canal from the Rariton. The forts projected at the Narrows, and at the pass of Throgg's Neck on the East river, while they defend the entrances into the bay, force the enemy to land in the Sound at a great distance from the city, and place Brooklyn Height at the bottom of an interior curve of the frontier of which these works occupy the extremities, in rear of an enemy moving upon Brooklyn, and afford time, by their resistance, for the militia to assemble and march to the relief of the city; thus greatly diminishing the chances of success to the enterprise. The expense of these works will be about \$1,800,000.

As to the forts projected for the East Bank and Middle Ground, they will complete the defence of the city, by depriving an enemy of the place in Gravesend Bay, the only spot on the south shore of Long Island where he can safely land to march on Brooklyn. They will also deprive him of the possibility of establishing himself on Staten Island; and thus reduce the points of attack to one in the Sound. Besides thus strengthening the defences of the city, they will prevent an enemy from anchoring in the outer harbor to blockade the Hudson, alarm the country, and intercept the interior communication by the Rariton.

The harbor of New York, in its present state, is scarcely at all defended against a sea attack, and the city is not at all defended against an attack by land. An invading enemy might reach the city within two or three days, either by the Sound or harbor, and, after accomplishing his object would find his retreat secure.

The batteries projected for New Haven protect that city against depredations, and secure a port

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of refuge in the Sound to merchant vessels escaping from privateers. The existing batteries are too small to offer any resistance.

The forts at New London will secure to the largest vessels safe and excellent anchorage at all seasons: as the Thames never freezes, they protect a good station, whence our navy can, at all times, keep good watch over the coasting merchant vessels, and, especially, over the navigation of Long Island Sound.

The projected defences on Narraganset Bay will deprive an enemy of the possibility of occupying that excellent roadstead, and secure it to the United States. The possession of this bay will be to us of inestimable advantage. It is the only one on the coast which vessels can enter with a N. W. wind, and, as the same winds serve for entering both New York and Boston harbors, (N. N. W. to S. S. W. round by the east) while Narraganset Bay is accessible with all winds, from N. W. to E. round by the W.; it follows, that, on this part of the coast, vessels may be certain of making a harbor with every wind of the compass, except the four points from N. W. to N. N. W. Narraganset Bay and Hampton Roads are also the only harbors from Cape Hatteras to Cape Cod, which are proper for naval rendezvous. This bay is besides a most important station for protecting the transit of vessels from the Vineyard into Long Island Sound.

If Narraganset Bay was left in its existing state, as to defence, an enemy would seize it without difficulty, and, by the aid of his naval supremacy, form an establishment in Rhode Island for the war. For this purpose it would be sufficient for him to occupy the position of Tiverton heights, opposite Howland's Ferry, which is of narrow front, easy to secure, and impossible to turn. He might then defy all the forces of the Eastern States; drive the United States to vast expense of blood and treasure; and while his troops would thus put in alarm and motion all the population of the East, feigned expeditions against New York, by Long Island Sound, would equally alarm that State and the neighboring ones; and, if he merely contented himself with menacing the coast, it is difficult to calculate the expenses into which he would drive the Government. The advantages which the United States will derive from the occupation of this bay, and those of which this occupation will deprive an enemy, seem to us of infinitely more importance than the sum of \$1,600,000, which will be required to close and fortify it completely.

The forts projected to cover Boston will have for object to defend the channel at its junction with the ocean, to cover Nantasket road against an attack by sea, to render any attempt against the naval depot and arsenal at Charlestown and the city of Boston impracticable, and to secure and facilitate the sailing out and in of the fleets of the United States.

The works projected for Plymouth, Provincetown, and Marblehead, will deprive an enemy who might attempt to blockade Boston of important anchorages; and, whilst the occupation of these

points will render a blockade of that port almost impossible, it will secure, at the same time, a refuge to our own vessels which may be prevented by contrary winds from entering Boston harbor. These works will also deprive an enemy of landing points whence he might march upon Boston and Charlestown, and thus secure these important positions against an attack by land.

The works projected at Salem protect that city and its commerce from the depredation of a hostile naval force, and deprive the land forces of an enemy of a landing place whence the whole country might be alarmed, and the naval depot of Charlestown be menaced.

The forts projected at Portsmouth and Portland secure to the Union these ports, important both to the commercial and naval interests of the country; they protect the sailing in and out of the ships destined to guard the coasting trade. The defence of these harbors by proper forts will enable the Government to form, under their cover, victualling and repairing establishments, and thus convert these harbors into ports of refuge for the navy.

The works projected at the mouths of the Kennebec, Sheepscot, and Penobscot, will secure the entrance of these rivers, protect the navy stationed on the coast to guard the coasting trade, and afford asylums to our privateers and merchant vessels when chased, and safe points whence the privateers can keep watch upon, and act against, the commerce of an enemy.

The forts to be erected for the defence of Mount Desert Bay will deprive an enemy of an important station whence he might menace and paralyze all the navigation of the coast of the State of Maine, and by which he would shorten the line of his operations against that of the coasts of New Hampshire and Massachusetts. These forts will secure to the United States a position from which will result the following advantages:

1st. A nearer and better point of departure for operations, in time of war, against the British establishments in New Brunswick and Nova Scotia, and against the commerce of those provinces.

2d. This position will protect, as far as the local circumstances of the country will allow it, the Eastern extremity of the maritime frontiers of the Union, being that nearest the possessions of another Power.

3d. It will secure a port of refuge for our Navy and privateers in the vicinity of a much frequented cruising ground.

From this rapid sketch we may deduce the urgent reasons, and the almost absolute necessity, for fortifying each of the points designated. But we refer to the reports of the commission in 1818, 1819, 1820, and 1821, for ampler information, as well as to give exact ideas of the manner in which these several points depend upon and support each other; of their mutual relations; and, in short, of all the naval and military properties of the frontier, both defensively and offensively considered.

To give, however, an idea of the chain of reasoning by which the commission directed its researches, and which governed its plans, we shall

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select one of the plainest cases of all those which came under its consideration. We will trace for this purpose the attack and defence of one of our cities in its actual state of defence, and then on the supposition that the works projected by the commission have been executed. It matters not where our choice falls, for unhappily all our cities are in the like predicament of total insecurity; and, as to the projected works, we believe they will place every important point of our frontier equally above every species of attack, whether by surprise or by force. We shall select Philadelphia, because its attack in neither case involves any complication in the movements for defence. We suppose an enemy to have arrived at Fort Mifflin, within a very few hours of the annunciation of his appearance off the capes. His attack will be instantly made by one or other of these methods:

1st. He will transfer the troops to the row boats of the squadron, and pass them by the forts, hugging the Jersey shore, while the fire of the forts is engaged by an attack of his numerous heavy ships and bomb vessels; land just below the city; seize and destroy the Schuylkill bridges, and take position north of the city, where he can only be assailed in front. His retreat will be conducted like his advance.

2d. He may land upon the Pennsylvania shore, and, by a rapid march, seize the Schuylkill bridges.

3d. He may land in Jersey, and cannonade the city from Camden; covering his incendiary batteries with his troops.

4th. He may assault the forts in the first place, (and he would hardly fail of capturing them,) and there will remain no further impediment to his advance upon the city, and nothing to interrupt his retreat from it. Arriving suddenly from the ocean, as he may, with an army of 20,000 men, an able enemy must succeed by either of these methods, and perhaps by others more complicated, and his retreat can be effected too before a sufficient force can come in to jeopardize his forces. It must be remembered that an enemy has so many points of attack amongst which to choose on the instant, that our forces, divided upon them all, can offer but a slight resistance at the particular point he may prefer.

We will now suppose the lower defences completed, and an enemy suddenly arrived before them. The numerous and well-covered artillery possessed by these works, and covering the obstructions which it is proposed to fix in the channel during a war, must render hopeless every attempt to force the water passage to Philadelphia, and leave him only the chance of reaching the city by land. His march will be either through Delaware or Jersey, or, by dividing his forces, along both shores of the river. The defence must be nearly the same in all these cases: two corps, one in Delaware and one in Jersey, each of about 2,000 men, will be prepared to meet his advance, under cover of the first natural obstacles. Whether these corps continue to act on different sides of the river, or unite, which, having the navigation of the river secured to them by the forts below, they

are at liberty to do, will depend upon whether or not the enemy divides his forces. These corps will have improved every natural advantage beforehand, by the addition of field works, and they will now defend them vigorously. Every disposition they make for defence, whether feigned or real, will oblige corresponding arrangements for attack, and thus, though too inferior to resist long at any one point, their repeated efforts produce that delay which is finally to defeat the enemy's design. Considering the rapidity with which, by their command of the river, they can send detachments to strike at the rear of the enemy's columns; considering that they have constructed works of strength upon positions naturally strong; that they have destroyed the bridges and obstructed the roads; considering their superiority over the enemy in a perfect knowledge of the country, and that their forces are hourly augmenting; we cannot doubt that the march which would, without resistance, have consumed four days, will be extended to six. The enemy, arrived at last before the city, will find all means of communicating with it destroyed or removed, and if it be not even now too late, must instantly begin his retreat. For, should he attempt the cannonade with incendiary batteries, they can hardly begin to produce effect before he will be surrounded by greatly outnumbered forces. The tables give a concentration at Philadelphia, in six days, of 83,991 militia. (See report of 1820.)

From the general exposition which we have given, it will be seen that all fortifications projected by the board are not of the same pressing necessity, nor of like importance; that some are required immediately, and that the commencement of others may be delayed. In classing them we shall observe, that the works of the most urgent necessity are those which are destined to prevent an enemy, in time of war, from forming a permanent establishment, or even a momentary one, on the soil of the Union; those which defend our great naval arsenals; and those which protect our chief commercial cities.

In the second grade we will place those which defend stations for our navy, and commercial cities of secondary importance, which, either from natural or artificial defences, existing works, &c., are not entirely without protection, and can wait until the chief and more important points are secured, at least against a first attack.

Finally, in the third class, we will range the works which will complete the defensive system in all its parts, but whose construction may, without imminent danger, be deferred until the frontier has received all the successive degrees of strength which the gradual erection of the forts of the first and second class will give to it.

The table A, joined to this report, has been drawn up on this principle, and shows:

1st. That the works to be erected during the first period, will cost \$8,010,054; will require two thousand five hundred and forty men at most to garrison them in time of peace, and twenty thousand three hundred and five in case of siege.

2d. That the works of the second class will cost

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\$4,711,030; will require one thousand three hundred men at most to garrison them in peace, and eight thousand six hundred and fifteen in case of siege.

3d. That the expense of the works belonging to the third class will amount to \$5,073,970; their garrisons, in time of peace, to one thousand one hundred and twenty men, and, in case of a siege, to nine thousand and forty-two men.

4th. That the total expense of completely fortifying the maritime frontier, will amount to \$17,795,055; the troops necessary to guard these fortifications in peace, to four thousand six hundred and ninety men at most, and thirty-seven thousand nine hundred and six-two men in time of war; supposing them, which is beyond all probability, all besieged at once.

The time required to construct these works must depend entirely upon the annual appropriations which the nation may grant to this branch of the public service. All that can be said upon this subject is, that, in an undertaking of such vital importance to the safety, prosperity, and greatness, of the Union, there should not be an instant's relaxation of effort and perseverance. A work of such magnitude must, with every possible effort, be the work of years; but each year, with limited means, will produce its fruit, and the final result is to endure for ages. However long it may be before sensible effects are produced the result will be certain; and, should no danger threaten the Republic in our own days, future generations may owe the preservation of their country to the precaution of their forefathers. France was at least fifty years in completing her maritime and interior defences; but France, on more than one occasion since the reign of Louis XIV. has been saved by the fortifications erected by his power, and by the genius of Vauban. However slow the progress of this system may be, from the necessity of a sparing application of the public funds to this purpose, it is essential to disburse something in this way each year, so as to give to the frontier an annual increase of strength. We must, therefore, insist upon the advantage of dividing the construction of works into several periods, according to their more or less immediate urgency, and of beginning them, successively in that order. By these means satisfactory results as to the augmentation of the strength of the frontier will be obtained as early as possible, whilst, if we were to begin them all at once, we should be a great while without defence upon any one point.

We shall now enter into the question of the expense of erecting these forts, and garrisoning them for war, and compare it with the expense of defending the coast in its proper state. To render this question as clear as possible, we shall only examine it with respect to New Orleans, Norfolk, Baltimore, Philadelphia, New York, and Narraganset bay.

Supposing that an enemy had concentrated about twenty thousand men at Halifax or Bermuda; the United States must, on hearing of this force, at once prepare to receive them at all the points mentioned above. As it will be impossible to foresee on which of these points the first blow

will be struck, it will be necessary to have troops encamped at each of them, and, to meet an attack with a force at least numerically equal to that of the assailant, the force kept constantly under arms in these camps must be at least equal to one half of the hostile expedition, whilst as many more must be kept in readiness, and within call. The points are so immediately accessible in some cases, and so remote from succor in others, that after the point of attack is known by the appearance of the enemy before it, there will remain no time for reinforcements to arrive. By manœuvring in front of any of these places, he will induce us to concentrate our forces there, when, suddenly, profiting of a favorable breeze, he will sail to another, which he may reach in a few hours and seize, if a force is not stationed there likewise, at least equal to his own. Neither, in such a case, can reinforcements be directed against him in time, for all the forces under march will have received a direction upon the point he has just quitted. Our whole coast will thus, by a single expedition, be kept in alarm, from Louisiana to Maine; and, such is the extent and exposure of the maritime frontier, that any enemy may ruin us by a war of mere threatenings. If our cities are not garrisoned, they will become his prey at once; if they are, the Treasury will be gradually emptied, the credit of the Government exhausted, the wearied and starving militia will desert to their homes, and nothing can avert the direful consummation of tribute, pillage, and conflagration.

The table B, joined to this report, shows that, to be in readiness on every vulnerable point, it will be necessary to maintain sixty-seven thousand men encamped and under arms at the six places above mentioned, and fifty-three thousand ready to march, and within call. This number is really below that which would be required; for these points being exposed, according to our hypothesis, to an attack from twenty thousand regular and disciplined troops, twenty thousand militia would not be able to repel them, unless aided by entrenchments, requiring a time to perfect them which would not be allowed us, and involving expenses which we have not comprised in our estimates. Besides, to have twenty thousand men, and especially new levies, under arms, it will be necessary, considering the epidemics which always attack such troops, to carry the formation of this corps to at least twenty-five thousand men. The State of Louisiana, being more remote from all succor, requires a larger force under arms than the other points; we have fixed this force at seventeen thousand, considering that the State might furnish three thousand within call.

These premises considered, and taking in all expenses, 1,000 regular troops, including officers, cost \$300,000 per annum, and \$150,000 for a campaign of six months; 1,000 militia, including officers, cost \$400,000 per annum, and \$200,000 in a campaign of six months, or \$200 per man for six months.

But if we take into consideration the diseases which infallibly attack men unaccustomed to a military life, the expense of hospitals in conse-

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quence, the frequent movement of detachments from the camp to their homes, and from the interior to the camp, and the first cost in camping utensils, accoutrements, &c., which is the same for a campaign of six months as for a year, this expense cannot be rated at less than \$250 for every militiaman, and \$250,000 for every 1,000 men for six months.

From these bases, the 67,000 men of the militia necessary to guard the above-mentioned points, in the present situation of our maritime frontier, will cost, in a campaign of six months, \$16,750,000.

In strict justice we should add to this expense, which is we believe greatly undervalued, amongst many other things the loss of time, and the interruption of the labor of the citizens who have left their business to assume arms for their defence. This is a real loss to the nation, and a heavy tax on individuals. And while reflecting on the dreadful mortality which rages in the camps of men unaccustomed to the fatigues and privations of a military life, we cannot help remarking how much greater the loss of a citizen is than of a soldier.

The latter is generally an isolated being; he has prepared the sacrifice of his life by entering the Army; it is the peculiar and constant duty of his profession. The former is a man of business—the father of a family—and his loss involves with it a large circle of domestic sorrow and suffering.

The total expense of constructing the works at New Orleans, Norfolk, Baltimore, Philadelphia, New York, and Narraganset bay, will amount to \$11,147,695, (see table B, and the reports presented in 1818, 1819, 1820.) Their garrisons might consist of the same number of regular troops in time of war as in time of peace; and the remainder might be furnished by the militia held in readiness to throw themselves into the forts on the first appearance of an enemy. By these means, 2,720 regulars and 21,000 militia, either in the forts or in small corps upon advantageous positions, making 23,720 men, would suffice after the erection of these works, and 36,280 might be kept in readiness to march when called upon. We should have kept only 23,720 to pay and support, instead of 67,000; and the expense would be \$5,658,000, instead of \$16,750,000. The difference, \$11,092,000, being about equal to the expense of the forts—it follows that the cost of their erection will be compensated by the saving they make in a single campaign of six months. It is proper to add, that though the expense of these works be great, that expense is never to be renewed; while with troops, on the contrary, the expense is annually repeated, if not increased, until the end of the war. Besides, the disbursements for fortifications are made in time of peace, slowly, and to an extent exactly correspondent with the financial prosperity of the country. Armies, however, are most wanted, and must be paid in periods of great emergency, when the ordinary sources of revenue are dried up, and when the Treasury can only be kept supplied by a resort to means the most disagreeable to, and the most burdensome upon, the people.

The defence of our maritime frontier by permanent fortifications, and even the expense of erect-

ing these fortifications, will thus be a real and positive economy. The points of attack being reduced to a few, instead of awaiting an attack on every point, and holding ourselves everywhere in readiness to repel it, we shall force an enemy to direct his efforts against these few points, with which we shall be well acquainted beforehand, and which we shall have disposed to withstand all his attempts. There is no doubt but that such circumstances will render an enemy more backward in risking his expeditions, and that we shall not only therefore be better able to resist attack, but that we shall also be less frequently menaced with invasion.

Some prominent military writers have opposed the principle of fortifying an extensive land frontier; but no military or political writer has ever disputed the necessity of fortifying a maritime frontier. The practice of every nation, ancient and modern, has been the same in this respect. On a land frontier, a good, experienced, and numerous infantry, may dispense with permanent fortifications, although they would prove excellent auxiliaries and supports when properly disposed and organized; but though disciplined troops can, rigorously speaking, without their aid, cover and protect a frontier, undisciplined troops never can. On a maritime frontier the case is totally different. Troops cannot supply the place of the strong batteries which are disposed along the important places. The uncertainty of the point on which an enemy may direct his attack, the suddenness with which he may reach it, and the powerful masses which he can concentrate at a distance out of our reach and knowledge, or suddenly, and at the very moment of attack, are reasons for erecting defences on every exposed point, which may repel his attack, or retard it until reinforcements can arrive, or the means of resistance be properly organized. By land we are acquainted with the motions of an enemy, with the movements and directions of his columns; we know the roads by which he must pass; but the ocean is a vast plain without obstacles; there his movements are performed out of our sight and knowledge, and we can receive no intelligence of his approach, until he has already arrived within the range of the eye. In a word, the vulnerable points of a seacoast frontier are left to their fate, if they are not covered by permanent fortifications; and their only chance of safety must then depend upon the issue of a battle, always uncertain, even when regular and well disciplined troops, inured to danger, have been assembled beforehand, and have made all possible preparation for the combat.

If we overlook for a moment the many points of the maritime frontier, which the enemy might invade with the most serious consequences to the United States; if we suppose that there exists no object on that frontier worth the trouble and expense of a great expedition; these fortifications will even yet be highly necessary. For we still have one great object to attain—the security of our Navy: this cannot be protected without fortifications, especially in struggling with an adversary superior in numbers, and jealous of a supremacy



*Report on Fortifications.*

on which may ultimately depend his political importance. A navy can neither be augmented nor secured without fortifications; nor can it enjoy, without them, the advantages which the localities of the frontier might otherwise afford: accidents may and must happen to it, and it is only in closed and fortified harbors that it can repair the losses and disasters of a course of war; and from them, when refitted and refreshed, recommence its operations. England herself, notwithstanding the great naval superiority which she possesses at this moment over the rest of the world, and the excellent organization of her militia, strengthens and augments the fortifications of her frontier every day: and no nation of Europe, France excepted, possesses a stronger and more complete system of permanent defences along its coast.

Lastly, the defensive system of our seacoast by permanent fortifications being completed, and the Union being protected against all danger of invasion from that quarter, she can direct all her resources towards her navy. Her national quarrels will then all be decided upon the ocean, and no longer upon her own territory: her wars will all be maritime, a species of warfare in unison with the institutions of the country, less costly in men and money; and which, by keeping off all aggressions from her own territory, will preserve untouched her industry, her agriculture, her financial resources, and all the other means of supporting a just and honorable war.

As for the garrisons which these forts will require in time of war, a small portion of them, equal in number to the garrisons necessary in time of peace, may be composed of regular troops: the surplus of militia practised to the manœuvres of artillery; for the greatest part of the troops required for the defence and service of these great coast batteries should be composed of artillery.

To this end, every State might organize a number of battalions of militia artillery proportioned to the exigencies and armament of the forts upon its coast, or within the sphere of activity of its military force. These battalions should be within call of the forts, as long as no invading expedition is announced; but, as soon as some operation of an enemy should menace the frontier, they should throw themselves into the forts, and remain there as long as the precise point of attack should remain uncertain. The system of defence for the coast was established in France, where it succeeded very well: it appears to us to harmonize as well with the institutions and spirit of the country, as with the principle of economy which should direct and govern all the expenses of the Government.

In the present report, we have taken no account of the interior and land frontiers of the Union: they have not yet been sufficiently reconnoitered to enable us to give an exact idea of the system of defensive works which they may require. All that we can say, by anticipation, is, that from their general topographical features, these frontiers can be covered at a very moderate expense by such a defensive system, that no enemy will be able to invade them without exposing himself to disasters almost inevitable; and that the armies of the Uni-

ted States, supposing all her warlike preparations well organized beforehand, will be enabled, at the very opening of the first campaign, to carry the theatre of war beyond her own territory.

If to our general system of permanent fortifications and naval establishments we connect a system of interior communications by land and water, adapted both to the defence and to the commercial interests of the country, if to these we add a well-constituted regular army, and perfect organization of our militia, the Union will not only completely secure its territory, but preserve its national institutions from those violent shocks and revolutions, which, in every age and every nation, have been too often incident to a state of war.

All which is most respectfully submitted.

[Signed by Brig. Gen. BERNARD, J. D. ELLIOTT, Capt. U. S. N., J. D. TOTTEN, Bt. Lieut. Col.]

Division of the proposed fortifications for the defence of the maritime frontiers of the Union in three classes, according to the urgency of their construction; exhibiting the strength of their required garrisons in time of peace and in time of war, and the expense of erecting them.

**FIRST CLASS.**

*To be erected during the first period.*

DESIGNATION OF FORTS.	Garrisons.		Expense of construction.
	For a Siege.	For Peace Establishment.	
<i>In Louisiana.</i>			<i>Dolls.</i>
Fort St. Philip - - -	400	80	77,810
Fort at Plaquemines - - -	750	100	392,927
Fort at Chef Menteur - - -	400	80	260,517
Fort at Rigolets - - -	400	80	264,517
Fort at Bayou Bienvenue - -	224	25	94,582
	2,174	365	1,094,353
<i>In Virginia.</i>			
Fort at Old Point Comfort -	2,625	600	816,814
Fort at the Rip Raps - - -	1,130	200	904,355
	3,755	800	1,721,169
<i>In Pennsylvania.</i>			
Fort at the Pea Patch Island	1,560	150	258,000
<i>In New York.</i>			
Fort at New Utrecht Point -	1,140	100	424,995
Fort at Tompkins' Point - -	970	100	485,988
Fort at Wilkin's Point - - -	1,336	100	456,845
Fort at Throg's Point - - -	1,540	100	471,181
	4,986	400	1,839,009
<i>In Rhode Island.</i>			
Fort at Bronton's Point - -	2,400	200	730,166
Fort at Dumlup's Point - -	1,850	200	579,946
Fort at Rose Island - - -	580	25	82,411
Dyke on the N. W. passage	-	-	205,000
	4,830	425	1,597,523

## Report on Fortifications.

## FIRST CLASS—Continued.

DESIGNATION OF FORTS.	Garrisons.		Expense of construction.
	For a Siege.	For Peace Establishment.	
<i>In Massachusetts.</i> Fort on the channel of Boston harbor* - - -	2,000	300	1,000,000
<i>In New Hampshire.</i> Fort at Portsmouth* - -	1,000	100	500,000
Total - - -	20,305	2,540	8,010,054

## SECOND CLASS.

To be erected during the second period.

<i>In Alabama.</i> Fort at Mobile Point - -	900	100	693,292
Fort at Dauphin Island - -	900	100	693,292
	1,800	200	1,386,584
<i>In Georgia.</i> Fort at Savannah* - -	1,000	100	700,000
<i>In South Carolina.</i> Fort at Charleston* - -	1,000	100	700,000
<i>In North Carolina.</i> Fort at Smithville* - -	400	50	100,000
Fort at Beaufort* - -	400	50	100,000
	800	100	200,000
<i>In Maryland.</i> Fort at Soeller's Point - -	835	60	673,205
Fort at Hawkins's Point - -	845	120	244,377
	1,680	180	917,582
<i>In Pennsylvania.</i> Batteries opposite to the Pea Patch Island Fort - -	760	100	347,257
<i>In Connecticut.</i> Fort Hale - - -	220	25	31,815
Fort Wooster - - -	155	25	27,793
	375	50	59,608
<i>In Massachusetts.</i> Fort at Marblehead* - -	400	50	100,000
Fort at Salem* - - -	400	50	100,000
	800	100	200,000
<i>In Maine.</i> Fort at Portland* - -	400	100	200,000
Total - - -	8,615	1,030	4,711,031

## THIRD CLASS.

To be erected during the third period.

<i>In Louisiana.</i> Fort at Grande Terre - -	400	80	264,517
Tower at Passe aux Herons - -	36	10	16,677
Tower at Bayou Dupre - -	36	10	16,677
	472	100	297,871

## THIRD CLASS—Continued.

DESIGNATION OF FORTS.	Garrisons.		Expense of construction.
	For a Siege.	For Peace Establishment.	
<i>In Georgia.</i> Fort at St. Mary's River* -	400	50	100,000
<i>In South Carolina.</i> Fort at Beaufort* - -	400	50	100,000
Fort at Georgetown* - -	400	50	100,000
	800	100	200,000
<i>In Maryland.</i> Fort at St. Mary's - -	380	60	203,602
Fort at Annapolis* - -	380	60	100,000
	760	120	303,602
<i>In New York.</i> Fort on the Middle Ground -	1,760	150	1,681,411
Fort on the East Bank - -	1,760	150	1,681,411
	3,520	300	3,362,822
<i>In Connecticut.</i> Fort Trumbull - - -	460	75	77,445
Fort Griswold - - -	830	75	132,230
	1,290	150	209,675
<i>In Massachusetts.</i> Battery at Plymouth* - -	200	50	100,000
Battery at Provincetown* -	200	50	100,000
	400	100	200,000
<i>In Maine.</i> Fort on the Kennebeck* - -	300	50	100,000
Fort on Wiscasset* - -	300	50	100,000
Fort on Penobscot* - -	400	50	100,000
Fort at M. Desert Bay* - -	400	50	100,000
	1,400	200	400,000
Total - - -	9,042	1,120	5,073,970

## RECAPITULATION.

At what period.	Garrisons.		Expense of construction.
	For a siege.	In time of peace.	
First period - - -	20,305	2,540	8,010,054
Second period - - -	8,615	1,030	4,711,031
Third period - - -	9,042	1,120	5,073,970
Total - - -	37,962	4,690	17,795,055

NOTE.—Where the asterisks (\*) are placed in the above table, either the projects are as yet unfinished, or they have not as yet been commenced. The war and peace garrisons, and the expense, exhibited by the table in those cases, are therefore very uncertain approximation.

Report on Fortifications.

Table exhibiting the cost of the projected fortifications for seaward defence; the forces necessary to protect them with the existing works; the forces necessary for perfect security, with the aid of the proposed defences, and the expense of the troops in both cases.

PLACES.	Aggregate cost of proposed works.	Comparison of the force necessary to defend them without or with the projected works.				Expense of the troops kept under pay, with the existing works.*	Expense of the troops kept under pay, with the proposed works.			
		Number of troops necessary with the existing works.		Number of troops required with the projected works.			Expense of the militia for six months, at 150 dollars per man.	Expense of the militia for 6 months, at 250 dollars per man.	Expenses of militia and regulars.	
				Under pay.						
				Under pay.	Within call.					Total.
				Regulars.	Militia.					
		</								

\* Supposing them all militia, and serving six months, and costing, on an average, \$250 per man.

RECAPITULATION.

Expense for defending the above mentioned points, during a campaign of six months, with the existing works	-	-	-	-	-	\$16,750,000
With the projected works	-	-	-	-	-	5,658,000
Difference	-	-	-	-	-	\$11,092,000

N. B.—In one campaign of six months the difference of expense between the two systems will amount, within a few thousand dollars, to the whole cost of the projected works. The expense of the troops above stated results from a calculation which gives the expense of a regular soldier \$300 per annum, and the expense of a militia soldier \$500 per annum; the expense of officers being, in both cases, included. No attempts to estimate the enormous contingent expenses in assembling, organizing, and providing, militia forces, of hospitals, waste of property, loss of time, &c., will avail. The above estimate is, undoubtedly, below the real cost. The forces under pay, necessary for defence with the proposed works, consist of the peace establishment, garrisons of forts, (for which see the reports of 1818, 1819, 1820,) doubled by additions of militia, and moveable corps of militia, stationed upon the approaches of an enemy.

*Application to abolish Privateering.*

ENGINEER DEPARTMENT,  
February 10, 1821.

SIR: So much of the information, required by the resolution of the House of Representatives of yesterday's date, as is contained in the following sentence, "the progress made in erecting the fortifications," will be found in the following extract from a report on the same subject, made on the 9th ultimo for the use of the Committee of Ways and Means.

## EXTRACT.

*Fort Delaware* is about five-sixths finished, and will be completed in the course of this year.

*Fort Washington* is still further advanced, and will be finished in the course of the ensuing Summer.

*Fort Monroe* has progressed two-fifths towards completion. Its appearance would not indicate that state of advancement, and yet the operations so far have been advantageously conducted. The reason is, that in this work, as in all works of magnitude, the operations have been mostly confined to the collection of materials, depositing them in the places where they will be used, and maturing arrangements preparatory to the commencement of constructions, and therefore make no show. The constructions of masonry were commenced last Summer; in the course of which was completed a casemated work capable of presenting to the channel of entrance a battery of forty 32-pounders. The masonry in future, by reason of the preparations above stated, in which are included immense excavations, part of them applied to the opening of a canal following the course of a ditch around the work, having locks, &c., from the use of which great facilities and economy in transportation of materials, &c., may be expected, will be carried on with rapidity. The fort will be completed in five years.

*Fort Calhoun* has received one half of the stone intended for the formation of the breakwater, or that part of its foundation to be below the surface of the water; the remainder will be deposited in the course of next year, after which it should be permitted to settle during one or two years before the superstructure be commenced, the completion of which will occupy three years more.

The fort on Mobile Point exhibits but little advancement. The impracticability of procuring the requisite materials by purchase, obliged the contractor to fabricate them, and the means by which even that could be effected were difficult of attainment, in some instances it having become necessary to create them. Under such embarrassments much delay was unavoidable; nevertheless, extensive arrangements for the preparation and transportation of materials have been matured. According to the terms of the contract, this fort should be completed on or before the 1st of next July, but the difficulties above stated will no doubt protract the completion to at least two years beyond that period.

The fort on Dauphin Island, although in all respects situated similarly to that on Mobile Point, is in better condition. The period limited in the

contract for its completion will expire on the first December next, but the fort will not be finished until some time in the following year.

The fort on the Rigolets Pass, under circumstances not materially differing from those stated, in reference to the two works last noticed, has been more successfully managed than either of them. The contract will expire on the 1st December next, and the work will probably be completed within that time, or shortly after.

All which is respectfully submitted.

W. K. ARMISTEAD,

*Colonel Engineers.*

Hon. J. C. CALHOUN,  
*Secretary of War.*

## APPLICATION TO ABOLISH PRIVATEERING IN TIME OF WAR.

[Communicated to the House, January 26, 1821.]

*To the Senate and House of Representatives of the United States in Congress assembled, the undersigned inhabitants of the State of Massachusetts respectfully represent :*

That, in common with many of their fellow-citizens in different parts of the United States, they consider it due to natural justice, and to the honor of Christian nations, that the capturing of private property should no longer be authorized by the laws of maritime warfare. Many practices once allowed in war have disappeared, as civilization and christianity have advanced; the same benign spirit calls for this further reform. It seems to be the design and scope of the modern laws of war to exempt, as far as possible, from the effects of hostilities, all persons who bear no voluntary part in the contest. On the land, public possessions alone become a prize to the conqueror. The common consent of nations has attached a deep disgrace to the plunder of an unresisting foe. On the sea, too, certain trades deemed necessary to human subsistence are privileged from capture. Why should not the same immunities be extended to all ships engaged in carrying on the commerce of nations, without agency in the war?

There is a striking inconsistency between the usages of war on the land and on the sea. Goods landed and stored are preserved to the owner, while those which remain on shipboard, though, perhaps, a part of the same cargo, are seized and confiscated. To rifle shops and dwelling-houses in a captured city, would excite a general disapprobation, but it is otherwise when the same wealth is intercepted in its passage over the ocean. Why the same acts which on land are pronounced disgraceful should on the sea escape reproach, it would be difficult to explain.

In exempting commercial property from capture, it would not be necessary to authorize a direct commercial intercourse between the belligerent Powers; this may, perhaps, be incompatible with a state of war. With this exception, the entire neutrality of trade would be far more bene-

*Application to abolish Privateering.*

ficial to the parties, and to the world, than a mutual exposure to attack and capture. Commerce is the interest of the world; it connects distant regions, multiplies and distributes the fruits of every climate, and makes every country a sharer in the natural, intellectual, and moral wealth of all others. To facilitate commercial intercourse, and multiply the incitements to industry, should be the wish of all nations. Confine any considerable part of the world to the consumption of its own products within itself, and you diminish the resources of all the other parts. Every cause, therefore, which embarrasses and restricts commerce, operates unfavorably to the progress and welfare of the human race.

And what are the effects of maritime war, as it is now carried on, upon commerce? Are they not to render trade unsettled and insecure; to destroy confidence and credit; to build up the fortunes of some, and to ruin others, with equal suddenness; to involve the rich in bankruptcy by unforeseen misfortune, and to load the adventurer, who hazards nothing, with a wealth which he can only abuse? Agriculture is depressed and discouraged; idleness is forced upon many who would willingly be employed in useful labor, and the sufferings of war are increased without any apparent benefit. But your memorialists forbear to insist on the advantages which would arise to commerce from the abolition of this practice. The measure is recommended by other and more powerful reasons. They believe that they speak a language justified by past and recent experience, when they say that the custom of making prize of private property at sea has been a source of great moral depravation, and of individual suffering, the measure and extent of which, it would be impossible to calculate. The habit of preying on the possessions of others, and of growing rich by a violent appropriation of their wealth, can hardly fail to engender, in those who are engaged in this pursuit, a rapacious and avaricious spirit, eager for riches, and little solicitous about the means by which they are acquired; negligent of others' rights, and ready to raise a specious pretext for invading them. This spirit will continue when the war has ceased; and there is too much reason to fear that those who have plundered under the sanction of the laws, may continue to plunder in defiance of their prohibitions.

In the Navy, perhaps, the character and education of the officers, and the elevated, generous feelings they regard as the ornaments of their profession, may, in a good degree, secure them from the dominion of a sordid avarice; but seamen, with no better means of instruction than they ordinarily enjoy, are exposed to these bad influences, on board of public, as well as private, ships. They are not used to nice and accurate distinctions. Once taught to acquire by violence, there is danger of employing the same means, with little reluctance, whenever it can be done under the color, however fallacious, of a lawful authority. It is true, that the practice of privateering is far more pernicious than the predatory warfare carried on by public ships. The private cruiser has no

motive but the thirst of gain. He may indirectly contribute to the success of the war, but this is not his principal object. With public ships, the taking of commercial ships is but accessory; with private cruisers it is the moving cause and chief design of the enterprise. Your memorialists, therefore, admit that, though they are unable to distinguish, in principle, between captures by public and private ships of war, it is from the latter they apprehend the most serious and extensive mischiefs. They deem the abolition of all captures of commercial property desirable, and they fear, that to take away privateering alone, would leave much of the evil incurred; but even were the measure thus limited, they believe that an additional provision, that all captures by public ships should be for public use, much would be gained to humanity and peace.

Your memorialists feel, and gladly acknowledge, that the legal sanction given to privateering has concealed from multitudes its real and detestable nature; and that this, like other barbarous customs, has been followed by men who have respected the general and undoubted principles of humanity. But they conceive that the time of this ignorance is past. Christianity and civilization have advanced too far to leave any who reverence moral distinctions blind to the guilt of this flagrant violation of social duty. The voice of religion and humanity has gone forth distinctly, and leaves, without excuses, the man who prowls the ocean to plunder unoffending strangers, to prey upon the weak, to grow rich on the spoils of those who are following a useful and honorable trade, to shed blood for no other ends than private gain. That men calling themselves Christians, and civilized, should ever have justified themselves in a practice so akin to robbery and murder, and should have held, without remorse, what they had extorted from an innocent fellow being with the sword, is indeed wonderful. But the darkness is gone, and the plunderer on the ocean, however sheltered from punishment by law, cannot escape the reproaches of all the friends of public and private virtue.

If war cannot be abolished, your memorialists desire that its evils may, as far as possible, be mitigated; and they rejoice at the general recognition of the principle, that a nation is bound to abstain from inflicting any evils on its enemy, except such as is necessary to the assertion of its just claims. That this humane principle may be more and more infused into national hostilities, it is of great and obvious importance that private passions, and the selfishness of individuals, should be enlisted as little as possible in the prosecution of the war, that its inevitable sufferings should be inflicted by public instruments for public ends.

Your memorialists conceive, that the peculiar facilities for privateering afforded by our maritime situation and habits, will give weight to whatever efforts our Government may employ for the abolition of the practice, and that, at the same time, they impose on us a peculiar obligation to resist it. The fact that, in the event of war, privateering will be the resource of multitudes of our citizens,

*Application to abolish Privateering.*

ought to alarm us. We are, perhaps, more than any other people exposed to depravation of manners from this source; and a worse evil cannot menace a community. Good morals are the strength of a State, especially of a free one; and policy joins with principle in denouncing a practice which whets the thirst for pillage, and weakens the obligations of humanity in the mass of the people.

The experience of the present moment gives great force to the arguments against the usage of subjecting to capture private property on the ocean: for we see how easily and naturally it becomes a cover for piracy and unauthorized depredation. We learn from the dreadful abuses to which this practice is liable, and which cannot be separated from it, that property at sea should ever be made more sacred, and be guarded by more rigid laws, than on land. We say nothing of the sufferings of the present moment from the capture and destruction of neutral ships. The injury to commerce and to society, from the depravation of seamen, is a wider and more lasting evil. The confidence once placed in that useful class of men is shaken, and with it the intercourse of nations, and the security of property at home are impaired.

The time has been when an application like the present to a Government would have been hopeless; when the civil power was the last resource for the friends of humanity. But we trust that we live in better and brighter times, when Government, instead of being a monopoly for the few, is regarded as a provision for the general good; and when that greatest of all political truths begins to be felt, that the interests of each country are bound up with the general interests of humanity, and that each country owes a debt to the world. A ruler is no longer considered as false to his own country when he seeks its prosperity in connexion with the progress and welfare of the race, and may be honored as a patriot, without ceasing to be a man. We earnestly desire that our Government, founded as it is on the broad principle of the equal rights of men, may lay an early claim to what will hereafter be esteemed the highest glory of a country—that of having introduced into the intercourse of nations those principles of equity and humanity which are now acknowledged to be binding upon individuals.

The practice of granting commissions to privateers is comparatively of modern date, and writers of the highest eminence and authority have concurred in lamenting its introduction. The opinion of Franklin has been quoted by other memorialists; and we would refer to an excellent precedent and guide to the article on this subject, introduced at the suggestion of that distinguished philosopher and statesman into the treaty concluded with Prussia in 1785.

The present state of the world is favorable to the proposed reform. No reasonable objection, it is believed, can be offered on the part of any nation if the laws concerning goods contraband of war, and those relating to blockades, are permitted to remain. The memorialists leave to the wisdom of their Government the course best

adapted to attain the proposed end. Mutual stipulations by treaty seem to be the most obvious means, and, for this reason, your memorialists would have applied to the Executive, had it not seemed to them that the legislative powers may also be properly and usefully exercised upon a subject so nearly connected with commerce and with public morals. The passing of a law, conditional as to its operations, and referring to future stipulations by treaty, may produce the happiest effects, and would be an immediate recognition of this great and humane principle.

Your memorialists therefore pray that Congress may consider the subject, and adopt such measures as may seem to them most wise and expedient.

William Phillips,	Frs. Parkman,
Isaac Parker,	Henry Ware,
John Phillips,	Benj. Dearborn,
Joseph Coolidge,	Lewis Tappan,
Jos. May,	Charles Tappan,
George Cabot,	David Hale,
Redford Webster,	Saml. Worcester,
Josiah Salisbury,	A. Haskell,
A. P. Cleveland,	R. F. Cloutman,
Thomas Dawes,	Thos. Worcester,
Jeremiah Evarts,	Thomas Longby,
Daniel Webster,	Jas. Humphreys,
William Prescott,	J. M. Brewer,
Samuel Hubbard,	Saml. Harkings,
Thad. M. Harris,	Thos. Wallcut,
William Jenks,	Thomas Vase,
W. E. Channing,	J. P. Blanchard,
Charles White,	George Hunt,
Robt. Waterston,	John Gallison,
John Mycall,	John Glen King.

## PRIVATEERING.

1. An Appeal to the Government and Congress of the United States against the depredations committed by American privateers on the commerce of nations at peace with us. By an American citizen. New York. 1819.
2. A proposed Memorial to the Congress of the United States. Boston. 1819.

The writers on national law distinguish between rules deduced by just reasoning from certain principles, and those which derive their force from common usage and consent. The former are of universal obligation, and are properly the law of nature applied to communities of men. The latter "are fitted, not so much to the goodness of an uncorrupted nature, as to the wants of one that is depraved;"\* they are neither binding upon all, nor at all times; they are brought gradually into use, are received by some sooner than by others, and may be changed without any violation of natural justice.

There is not much difficulty in defining the rights of property and the obligations of contracts,

\* *Jus gentium secundarium dicitur, quod accommodatum [est], non tam incorruptæ naturæ bonitati, quam depravatæ necessitatibus.—Voet ad Pand. L. i. t. l. n. 18.*

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as they exist between nations. Public justice differs not essentially in these respects from private. The facts once settled, it is as easy to decide by what acts one nation has injured another in a state of peace, as to determine when the rights of one individual have been invaded or withheld by another; as easy to pronounce what is a just cause of war, if we allow war for any cause to be lawful, as to judge of the grounds of a lawsuit. In most cases, indeed, it will be found that neither party in a war is entirely right nor entirely wrong, and through the mist of mutual crimination and defence, manifestoes, answers, insults, and aggressions, it will be difficult to discern the first offence. But this is a difficulty not attributable to any defect or uncertainty in the code of public law.

But there is also a law of war, and it forms by far the most important branch of the *jus gentium*. Whence is this to be deduced? How far are the reciprocal rights and duties of nations at peace destroyed by a state of war, and what are the new obligations that grow out of this state? What are the limits to the rights of destruction, and how are they to be known? Who shall say to mad revenge, "It is enough—stay thy hand!" Where is the precise boundary, on one side of which are glory, and honor, and victory: on the other, rapine and murder? It will be obvious that there must be great uncertainty as to the extent of the power given to enemies over the persons and goods of each other, and that wars will be carried on with more or less cruelty, as nations are more or less advanced in humanity. Reason will afford little aid, and the restraint will be rather the effect of milder feelings than of more correct judgment. The conqueror will be deterred from a passionate and vindictive abuse of his power, more by the fear of being disgraced as a barbarian, than of being condemned as a violator of public law. What was once a theme of applause will in time be followed by reproach and shame. What is fit and right to be done towards an enemy will depend more on usage, varying at different times and among different people, than on any conclusions of reason. We would be understood to speak, as most writers on national law have done, without reference to the commands or the counsels of religion, whether natural or revealed. These writers seem to have adopted as a truth the poetic declaration, "*nulla fides, pretaque viris qui castra sequuntur.*" They have proceeded upon false principles. As some political sophists have derived the principles of the social compact from a supposed natural state of men, when every one stood single and independent, free to give or retain that entire sovereignty which he enjoyed over himself; so jurists have sought in the condition of savage nature for the rights and relations of political societies. They have therefore considered a state of hostility as a dissolution of all ties, and a license to all mischief. An enemy, in their view, cannot be injured. Charity and humanity may be offended; the atonement exacted may be greater than would consist with generosity and tenderness which we esteem men the more for possessing; but the sufferer cannot consider himself wronged,

nor is any positive and binding law broken. "It stands to reason," says Heineccius, "that against an enemy all things are permitted."\* And Puffendorf thus explains both the rights of belligerents, and the restraints which humanity would impose upon the exercise of them: "From the moment that any one declares himself our enemy, since we have any thing to fear on his part, we are authorized, as far as in us lies, to use acts of violence against him to any extent,† and with no other limit than our will;‡ but humanity requires, that, as far as the rules of military art allow, we do no more injury to an enemy than is necessary for our defence, for the vindication of our rights, and for our future safety."—"Non id solum considerari vult, quid hostis citra injuriam possit pati, sed et quid humanum, adde et generosum victorem facere debeat." Grotius, indeed, limits the rights of war to what is necessary for attaining the end proposed, whether of self-preservation, just reparation, or merited punishment.—*Lib. 3. cap. 1.* But this, however just in theory, is too indefinite to afford any practical rule; especially when it is considered that hostilities are allowed to be continued until satisfaction is obtained, not only from the original wrong which was the cause of the war, but for all the expense and injury sustained in prosecuting it. And we learn from the same enlightened and benevolent jurist, that, "by the law of nations, the possessions of one party in a war are to the other, in all respects, as things without a proprietor,§ and that "all are accounted slaves who are made prisoners in solemn public war."—"nor is an offence necessary, but the lot of all is the same, even of those who, on the sudden breaking out of war, may be so unfortunate as to be found in the enemy's country."|| Cocceius, the commentator of Grotius, goes somewhat further, and maintains that "an enemy is to be regarded as a criminal deserving of death: hence, when the Government declares war against any one, by the very act it gives to every citizen the right to inflict on him any degree of evil, to lay waste and plunder his possessions," &c. Let us not, however, forget what we owe to Grotius. The lessons of moderation and humanity which he gave as admonitions, have so approved themselves to the reason of mankind, that they have acquired the force, if not the character, of laws; and cruelties, of which he contented himself with saying, "*certe omittantur sanctius, et cum majori apud bonos laude,*" would now cover with disgrace the conqueror who should practise them.

\* *Hosti enim in hostem omnia licere rationi consentaneum est.—De Nav. ob vect. &c. commiss.*

† *A toute outrance.—Barbeyrac.*

‡ *Licentiam concedit vim contra ipsum exerendi in infinitum, aut quantum mihi videatur.—De Jure Naturæ, &c. lib. 8. cap. vi. § 7, De Officiis Hom. &c. lib. 2. cap. xvi. § 6.*

§ *Gentibus placuisse, ut res hostium hostibus essent non alio loco, quam quo sunt res nullius.—Lib. 3. cap. vi. § 8.*

|| *Par omnium sors est, etiam eorum, qui, fato suo, ut diximus, cum bellum repente exortum esset, intra hostium fines deprehenduntur.—Lib. 3. cap. vii. § 1.*

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Thus have the rights of war been deduced from the assumed position that an enemy cannot be injured; that, by the injustice or violence which gave occasion to the war, he has forfeited all rights and become an outlaw; that his life, liberty, and property, are at the mercy of the conqueror; that to spare may, indeed, be praiseworthy, but cannot be enjoined as an act of justice. And, as between nations there is no arbiter, each party in the war has all the rights of the injured, and is subject to all the penalties of the guilty. Justice must always be presumed to reside with good fortune or superior strength. Every subject, too, of the warring State, however ignorant he may be of the causes of the war, however peaceful and unoffending, has incurred a daily guilt in the acts of his superiors, and is the object of unsparing vengeance and unlimited punishment. Whatever *temperaments* have been admitted in the conduct of wars, have been the result of feelings and notions of humanity more or less refined, and views of policy more or less enlightened, as different degrees of knowledge and improvement have prevailed. "Every people have a law of nations. The Mohawks even have theirs. They eat their prisoners, it is true, but they send and receive embassies, and acknowledge the rights of war and peace; the mischief is, that their law of nations is not founded upon true principles."—*Montesq. Esp. des Loix, liv. 1. ch. ii.* What Barbeyrac, in his eloquent and beautiful discourse on what the laws only permit or allow, has said of civil laws applies with still greater force to national jurisprudence: "We learn from the monuments of antiquity, that the first laws had scarcely any other origin than custom, which is often a wretched master. Rules thus introduced are commonly established with little examination or reflection. Ignorance, prejudice, passion, example, authority, caprice, have manifestly a greater share in producing them than reason. It is rather the opinion and decision of a blind multitude than that of the wise and virtuous."

Had religion and the morality of the gospel been made the foundation of the rights and duties of States, in war as well as in peace, it is probable that many customs derived to us from ruder ages, perhaps even war itself, would long since have disappeared. But rights have been sought for in another source, and religion has been permitted to interpose her counsels, not her authority, to moderate the usage of that power, which reason and nature have been thought to bestow. Is it not probable that some usages yet remain, which habit and prejudice, and an imaginary interest alone, prevent our regarding with the same abhorrence with which we should now look upon the reducing of captives and their posterity to perpetual and irredeemable slavery? Have we yet confined the license of war within those bounds which the law of charity would assign to it? Do we not even receive as principles of justice some things which have no better support than the practice of earlier and less enlightened times, justified by an artificial reasoning, which, taking things as they are found, invents a plausible defence for whatever custom allows?

We have made these remarks more especially with a view to the practice of privateering. It is matter of just astonishment that a species of warfare so repugnant to all our better feelings, so estranged from all that is deemed noble and honorable among men, should so long have prevailed. It is a practice which can boast nothing of the chivalrous spirit which we have been taught to admire in the warrior. It begins and ends in pure unmixed selfishness. It seeks neither fame nor power, but wealth—wealth, not the fruits of patient industry or honest skill, but wrested by the hand of violence, or stolen by surprise and stratagem. It makes every other consideration yield to a sordid avarice. In its greediness it hardly distinguishes between friend and foe, and is ever ready to pounce upon its prey, whether it be the property of an enemy or that of a fellow-citizen, which, by the rigid rules of war, has become the subject of confiscation as prize. The means which it employs are not less cruel and disgraceful than its purpose is unworthy. It can make its way through blood to the treasure it gloats upon, lure by false smiles to destruction, advance securely to its object under the guise of friendship, ensnare by treachery, deceive by perfidy, and secure its unrighteous gains by shameless perjury. Not that every one who engages in this practice is under the influence of the vilest passions, insensible to shame, or stained by the blackest crimes. Many, we doubt not, whose lives prove them to be friends to religion and humanity, and who would scorn to enrich themselves by fraud or dishonesty, have adventured in privateering without reflecting upon its nature and tendency. They have been deceived by the legality of the practice. Perhaps, even they have persuaded themselves that, while they improved their own fortunes, they were displaying a patriotic zeal for the service of their country. As long as privateering is countenanced and encouraged by public authority, there will be many estimable men, who, looking no further than to what the law allows or forbids, are blind to the immorality of preying upon their fellow creatures. A solemn responsibility, then, rests upon those who govern. Nations, by a common consent, should relinquish a custom so inseparable from abuse and licentiousness, so vexatious to commerce, and so little under the control of wholesome laws.

There is no doubt that great antiquity may be pleaded for the practice of plundering. For several ages after the irruption of the northern barbarians, war and plunder might almost be considered as individual rights. Every petty baron enjoyed the privilege of taking up arms, and every vassal was free to seek his fortune in predatory incursions upon the enemy, whether by land or sea. The infidel Powers, which bordered the Mediterranean, covered the sea with small piratical vessels; and the Christian States, whose commerce suffered from their depredations, partly in self-defence and partly in the hope of gain, fitted out small cruisers, or armed their merchant ships. It was most common for many persons to unite for this purpose in a sort of partnership. No public commission was required. Against infidels it was the right and



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duty of every Christian to wage incessant hostility, and to do them all possible injury.—*Martens*. At the same time the inhabitants of the North sent their fleets to make descents upon the coasts, and enrich themselves with the wealth and luxuries of the South.\* They were most often conducted by private adventurers, whose bravery or skill caused them to be selected as chieftains. Piracy was a common trade, and the word was far from carrying with it the ideas of criminality and disgrace which we now attach to it. Selden cites a passage from Asserius, who was the preceptor of King Alfred, in which he says that this "Prince caused long ships to be built for the purpose of defence against enemies approaching by sea—*impositisque piratis in illis vias maris custodiendas commisit*," on which Selden remarks, that "this word 'pirates' is not here used for robbers, as it now commonly is, but for such as attacked the enemy's fleets in naval warfare."† So the term "corsair," from the Italian *Corso*, is the generic term of pirates and privateers. (*Martens on Privateers*, page 2, note.) The truth is, that in an age when the obligations of humanity were neither acknowledged nor understood, and every person might make such use of his strength, or his cunning, as seemed to him best, so as he did not invade the property of those to whom he was bound by the tie of a common allegiance; and when the sanction of the prince was not necessary to enable private persons to attack and plunder the enemy, there could be no distinction between authorized and unauthorized depredations on the ocean. "The Gauls," says Cleirac, "regarded all strangers as enemies, and not only robbed them of their goods, but put them cruelly to death, offering them as bloody sacrifices to their false gods.‡ And Boucher: "In the height of the feudal anarchy, that is to say, in the ninth century, every person might act the part both of judge and executioner, without any incompatibility in the two conditions, and without disgrace. At that period mariners were a set of robbers."—*Consulat. de Mer. vol. 1, p. 74*. The inhuman law of wreck, first relaxed in England by the act of Henry I, providing that the property should be saved from forfeiture, if any person escaped alive from the ship, is a memorable instance of the same savage state of manners.—See *Hume, reign of Henry II. Black. Com. chap. 8, b. 1. Boucher, Consul. de Mer. vol. 1, p. 490*.

It is in vain, then, for the apologists of privateering to have recourse to these remote ages in support of the assertion that the practice has long

\* The ravages of the Normans are hardly mentioned before Charlemagne. It was then they began those cruises which made them the terror of other nations.—*Boucher Consul. de Mer. page 494*.

† Selden's *Marc Clausum*, lib. 2, cap. 10—quoted Robinson's *Coll. Mar. page 21*, "and embarking pirates in them employed them to guard the approaches by sea."

‡ Les Gaulois reputaient tous les étrangers pour leurs ennemis, et ne les expoliaient pas seulement de leurs biens, mais en outre ils les mettaient cruellement à mort, et en faisaient de sanglans sacrifices à leurs faux dieux."—*Us. et Cout. de Mer. page 95*.

or always existed.\* Even were antiquity a less doubtful plea than it is, the argument proves nothing, but that in those benighted ages men robbed of their own head, and that in these more civilized times we have so far improved as to sanction the proceeding by public authority. The modern practice is better than the ancient, inasmuch as some excesses may now and then be prevented by the control of the Government over privateers, and it is convenient to be able to denote piracy by the absence of a lawful commission: but the question remains, whether it is morally right, or politically expedient, for Governments to grant such commissions, or for individuals to act under them? And this question can never be answered by saying that men were accustomed to rob for a long time before it began to be necessary to have a public commission for doing it. It was found necessary to impose restraint upon private and unauthorized violence, even between the subjects of hostile Powers. This was a declaration, that the ancient practice was only fit for a state of society as barbarous as that in which it existed. Something, doubtless, has been gained by the restrictions of acts of war to those whose hands are armed by the sovereign power; but whether this gain has been great, or the most essential evils connected with private plunder have been remedied, let history speak. We appeal to the loud and incessant complaints of neutrals, of whose commerce privateers have been just called the scourge; and to the tortures and cruelties inflicted by these "judges and executioners," of which the annals of privateering, ancient and modern, afford so many examples.

It is probable that the practice of nations, in the disputes arising between them or their subjects, has followed the same course of improvement with their municipal laws. Every one who has attended to the history of criminal jurisprudence, knows that not many ages since every individual possessed the power of punishing, and the avenging of wrongs was left to the injured party or his friends.† But as the world grew wiser and more inclined to peace, a check was put on the right of private revenge, and tribunals began to inquire into the fact, and to measure the punishment in proportion to the guilt. So, among nations, the frequent broils occasioned by the hostile attempts of individuals, gave rise, by degrees, to the custom of granting letters of reprisals. At first, doubtless, they were only given in a few instances, and subjects continued to attack and plunder without asking the permission of the sovereign. The *Consolato del Mare* contains an entire chapter regulating, with great precision, the conduct of armed cruisers, and the division of their plunder. Not a syllable appears of any public commission being necessary, or even a judicial condemnation of prizes. The publication of the first Catalan edition of this collection is supposed by Boucher to have been

\* See note to *Martens on Privateers*, page 20. Wilenberg derives privateers from Theute, Queen of Illyria; and Valin maintains that they have existed at all times.

† See *Kames's Historical Law Tracts*.

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about 1494, and he carries the compilation as far back as the beginning of the tenth century. But its origin is fixed with more probability between the years 1250 and 1266.\* This code is commonly supposed to have been first compiled in Barcelona; and it is in the Mediterranean, where commerce was preyed upon by the Barbary corsairs, that we should expect to find the practice of private cruising most prevalent. Letters of marque and reprisals were issued upon the petition of a subject, who complained of injustice done to him by some foreign Prince or subject, and they empowered the party receiving them, whether an individual or a community, to obtain satisfaction by seizing the goods of any subject of the offending State. They were limited to the restitution of what had been unjustly taken or withheld, or compensation in damages for the injury suffered. Reprisals are sometimes spoken of as a means of preserving peace, because wrongs were thus remedied by a sort of violence, which is compared to that used in the execution of legal sentences between subjects of the same State, without the extreme resort of war† The earliest instance of reprisals recorded in England, was in 1295, when Edward I. granted to a subject, "licentiam marcandi homines et subditos de regno Portugallie et bona eorum per terram et mare."—*Rymer. vol. 2, page 691; Anderson, vol. 1, page 136.* It does not seem to have been considered necessary to be provided with letters of reprisals until the fourteenth century, and no mention is made of them in treaties prior to that time.—*Martens, note, page 10.* The right of making reprisals is said to have belonged to every magistrate, and even to private subjects, until the reign of Charles VII., in France.‡—*Puffendorf, de Jure Nat., &c., lib. 8, chap. 9, sec. 13, note 2.* A law was made in France concerning them, in 1345.—*Martens.* There are frequent instances in Rymer, in the fourteenth and fifteenth centuries.§ An act of the English Parliament, of the

\* Martens, page 6. And this is the assertion of Giannoi, in his History of Naples, book xi, chap. 6. But see notes to the preface of Robinson's translations of the prize chapters. The chapters relating to this subject were probably added at a period subsequent to the original compilation.

† Puffendorf defines them, "violentæ executiones in cives aut bona civium alterius reipublicæ, quæ justitiam administrare detrectat."—*De Jure Nat. &c., lib. 8, c. 6, sec. 13.*

‡ This is probably a mistake for Charles VI. See his ordinance mentioned afterwards.

§ Vol. viii. page 96—Fr. ed. vol. iii. part 4. page 166, year 1399—letters granted by Henry IV. commanding his admirals and other officers to seize the ships and goods of subjects of the Earl of Holland in English ports, reciting, with great care, the previous demands and refusal of justice. Rymer, Fr. ed., vol. iv., part 1, page 161, year 1409—granted, by Henry IV. to the Sieur de Casteillon to enforce the performance of contracts made with him by the subjects of the King of Arragon, commanding all public officers to assist him, and to keep all prizes safe in their fortresses till the contracts are fulfilled. Rymer, Eng. ed., vol. viii., page 717, year 1411—against the Genoese. Rymer, Eng.

year 1353, 27 Edward III., provides, "that no foreign merchant shall be troubled or impeded, &c., provided, that if any of our liege subjects, merchants, or others, be injured by any lords of foreign lands, or their subjects, and the said lords, upon due request, refuse to do justice, we shall have the right of mark and reprisals, as has been used in time past."—*Martens, page 12, note.* An ordinance of Charles VI. of France, of December 7, 1400, forbids any subject to fit out ships at his own expense, for carrying on war against enemies, without license first obtained from the admiral or his lieutenant.—*Code des Prises, tome 1, page 1. Robinson, Coll. Mar. 75. Martens, page 18.\** From this ordinance, and from other documents, it is probable, that in the fifteenth century commissions began to be issued to private subjects, in the time of war, similar to those which were granted for making reprisals in time of peace. They retained and still retain the name of letters of marque and reprisal; and, at this day, the issuing of them is often the first declaration of war. It is, however, very certain, that the practice of granting commissions to privateers did not become general before the end of the sixteenth century. The first instance, in which their aid appears to have been considered important in carrying on the war, was, in the contest between Spain and her revolted provinces of the Low Countries, which began in 1569. In 1570, the Prince of Orange, in the hope of replenishing his impoverished finances by seizing on the money sent from Spain to the Netherlands, issued commissions to many of his adherents, authorizing them to cruise against the ships of Spain. A considerable fleet was equipped, and, increasing daily in number, they soon became terrible by their depredations, not only on the commerce of Spain and the Netherlands, but on that of their own and of other countries. It is said that their country suffered from them not less than from the despotism and cruelty of Alva. As the confederated reformists had themselves been called in derision *gueux*, or beggars,† these freebooters were called *gueux de mer*, or sea-beggars.—*English Univ. Hist., vol. xvii., page 388.* Many of them were punished by Spain and other nations as pirates, not so much, it is said, on account of their excesses, as of the supposed illegality of their commissions.—*Martens, chap. 1, sec. 7.* The French, however, may probably claim the distinction of

ed., vol. viii., page 755, year 1412—against the persons and goods of the French, limited to the satisfaction of the actual damage. Anderson, vol. i., page 239—another instance against the Genoese, limited in sum, year 1413. In the year 1379, Richard II. is said to have granted to the people of Dartmouth a general cruising commission against the French; and in 1385, the inhabitants of that town took some French vessels.

\* An English act of Parliament to the same effect was passed, A. D. 1414, 2 Henry V., c. 6; and a law of the Emperor Maximilian respecting the Admiralty of the Low Countries in 1487, ordered "that no person should fit out a ship for a cruise without the express permission of the admiral or his lieutenant."—*Martens on Privateers, page 18.*

† De Thou, tome v.

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having first sent out, in any considerable numbers, these scourges of the sea. Their code exhibits the most ancient regulations concerning privateers; and, it is well known, that their maritime laws have always been the most severe against the commerce of neutrals. De Thou relates,\* that, in 1555, the French King, having received advice that several Dutch ships of great burden were returning from Spain, laden with every sort of valuable India goods, gave orders to the inhabitants of Dieppe unquestionably the most experienced mariners in France, to equip such vessels as they could find in the ports on the coast of Normandy, and seize this rich fleet. The privateersmen of Dieppe,† having fitted out for cruising nineteen ships and six brigantines, under the command of Epineville, a celebrated mariner, met the Dutch opposite to Dover. A most obstinate battle ensued, which lasted six hours. Many ships on both sides were burned; the flames drove the French from their own ships into those of the enemy, and, having more men, they made many of them prizes. The Dutch lost a thousand men, and the French four hundred.

The English seem not to have been slow in imitating the example set them by the French and Dutch. In the year 1586, we are told by the author last quoted,‡ before war had been declared between England and Spain, Philip II. seized and confiscated the goods of the English merchants. The English, under pretence of reprisals, set themselves to pirating over the whole ocean, harassing the navigation not only of the Spanish and their allies, but even of the people of the Low Countries, whom they robbed without distinction. The merchants of the United Provinces in vain sought redress in the English admiralty. But the Queen, Elizabeth, wearied by the complaints which came to her from all quarters, made severe regulations, requiring cruisers to give security not to meddle with any ships but those of Spain, and not to dispose of their prizes till they had been regularly condemned in the Admiralty. "The piracies," says De Thou, were checked for a time by these decrees; but means were soon found to evade them, under pretence of privileges, or by means of subtleties, which persons in power contrived at."§ Spain and England, shortly after the

depredations committed under the commissions of the Prince of Orange, issued commissions to great numbers of privateers. The expeditions of Drake and Frobisher are said to have been of this nature.\* In 1625, James I. found it necessary to issue letters patent addressed to the High Admiral, reciting the great losses and damages sustained by many of his subjects, by the surprising and taking of their ships and goods by the subjects of Spain in the Low Countries, and by those of the States General, and that justice having been demanded in vain, his subjects had made humble suit to him for letters of reprisals. He therefore requires the Admiral to grant commissions for taking the ships of the Low Countries and States General to such of his subjects as had been so damnified.† In 1627, Charles I. granted reprisals against the French to such of his subjects as had had ships or goods taken by the French, and a war followed in the same year.—*Anderson*, vol. ii. p. 27. In that same year, too, we are told that Charles was obliged to fit out an armament to protect the coal trade against privateers from the Spanish Netherlands.—*Anderson*, vol. ii. p. 29. The Dutch war for independence ended in 1648. Towards the close of it, in 1643 and 1645, the *placarts* or decrees of the States General held out great encouragement to privateers.—*Martens*, 26. In that long continued contest, the use of these instruments had become familiar. Treaties and laws were made for defining their rights, and preventing the abuses to which they were found to have so strong a tendency.‡ But new discords kept alive the spirit of

sentence of the admiralty, and what captains, &c., under color of commission of reprisal, have boarded, taken, &c., ships of England, France, &c., Holland, Zealand, &c.

\* *Martens*, p. 26. And in the debate upon Pulteney's act for encouraging privateers, 1739, Pulteney argues from this, as an instance of the spirit and power with which private adventurers could act. "It was," he says, "to private adventurers that all the success of Francis Drake was owing."—*Parl. Deb.* vol. xvii. p. 415. We have great doubts, however, whether these expeditions are to be classed with cruises of privateers. Drake's was an expedition fitted out for the purpose of attacking Spain in her home dominions. Elizabeth furnished about £30,000 and several ships, and Drake and his associates supplied the residue. The spoils were to be equally divided between the Queen and the fleet.—*De Thou*, vol. x. p. 693. There is an important difference between the employment of ships equipped at private expense, but hired by the public, and sailing in fleets with the public forces, under the government of naval officers, and cruises performed by one or more ships under the orders of private adventurers.—*See also Lee on Captures*, p. 199. It seems to have been an ancient practice to use in warlike expeditions ships under the wages of the King, and to give them a part of the prizes. See the ancient articles of the Admiralty subjoined to Clerke's Praxis, p. 163, A. 19.

† *Rymer*, Fr. Ed. vol. vii, part 4, p. 185.

‡ *Martens*, p. 26. Voet ad Pand. vol. ii, p. 602, speaks of the "naves privatorum predatorias permissione ordinum instructas," and cites the Admiralty instructions of the 13th August, 1597, and decrees of

\* Hist. tome ii., page 633.

† *Les armateurs de Dieppe ayant armé en course*, &c.

‡ *De Thou*, Hist. tome ix., p. 545.

§ See in Robinson's Coll. Mar. a proclamation of Elizabeth, of the year 1602, reciting the great extent of the piracies complained of, and forbidding any man of war to be fitted out without license and surety. The preamble refers to other laws and orders lately published, "upon the growing on of these fowl crimes and piracies colored by other voyages." And in the Statuta Admiraltatis of Master Rowghton, printed in Clerke's Praxis, p. 161, we have an ordinance of 1591, requiring presentment to be made of all those that since the late proclamation have had traffic with the leaguers in France, and of all who have set out ships without commission, and to inquire what ships and goods have been taken at sea without commission, and of breaking bulk and disposing of prizes before

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plunder, and privateers still found favor, as a cheap means of carrying on war through the instigation of private avarice. In 1634, disputes began between the English and Dutch. The northern fishing, and the sovereignty claimed by the British in the narrow seas, were the chief subjects of contention. England, in the mean while, was disturbed by civil wars, and the Parliament party was not likely to omit any means of annoyance which had heretofore been employed with success. In 1643, exasperated by the cessation of arms in Ireland, "they forbade all masters of ships to bring over any officers or soldiers, on penalty of the forfeiture of their vessels, and give letters of marque to merchants and others who would fit out ships at their own expense, empowering them to take to their own profit all such ships and goods as they should meet coming over with soldiers or warlike stores for the King."\* The friends of the King were not slow in retaliating this measure, for in 1644 the goods of the merchants trading in France were seized, and letters of marque granted against all that adhered to the Parliament.—*Whitlocke*, p. 130. Of the activity of private cruisers in the hostilities which ensued, the reader may satisfy himself by referring to the book last quoted, where he will find instances of mutual depredation more numerous than we have any disposition to record. Doubtless, the practice was attended with much abuse and licentiousness. In the year 1650, April 16, "an act was passed for preventing wrongs and abuses done to merchants at sea, and prohibiting mariners from serving foreign Princes or States without license.—*Whitlocke*, p. 451. Soon after this, in 1652, the Parliament and the Dutch came to open hostilities, and an active course of privateering commenced between them.† From their near neighborhood and their former habits, there can be no doubt that during this two years' contest they kept up this sort of warfare in its worst form.

The restoration of the King made no alteration in the policy of the English, as it respected their rivals, the Dutch. The scheme of maritime superiority was carried on in the same spirit which had dictated the navigation act. Privateers found great favor in the eyes of the Court,‡ and the passage we

are about to quote from the Life of Clarendon will show that this is an important epoch in the history of the practice. It is the more remarkable, as it is from the pen of that virtuous Chancellor himself. It relates to the period, 1664, when the Ministers of Charles II. provoked a new war with the Dutch, in the prosecution of their great design of becoming the exclusive masters of the commerce.

"It was resolved, that all possible encouragement should be given to privateers, that is, to as many as would take commissions from the Admiral to set out vessels of war, as they call them, to take prizes from the enemy; which no articles or obligations can restrain from all the villany they can act, and are a people, how countenanced soever, or thought necessary, that do bring an unavoidable scandal, and it is to be feared a curse upon the justest war that was ever made at sea. Besides the horrible scandal and clamor that this class of men brought upon the King and the whole Government for defect of justice, the prejudice which resulted from thence to the public, and to the carrying on the service, is unspeakable. All seamen run to them, and though the King now assigned an ample share of all prizes taken by his own ships to the seamen, over and above their wages, yet there was a great difference between the condition of the one and the other. In the King's fleet they might gain well, but they were sure of blows; nothing could be got there without fighting. With the privateers there was rarely fighting. They took all who could make little resistance, and fled from all who were too strong for them. And so these fellows were always well manned, when the King's ships were compelled to stay many days for want of men, who were raised by pressing, and with great difficulty."—p. 242. From this time privateers have been common in all wars between maritime countries, and Governments have endeavored, by the most liberal encouragements, to increase their number and whet their thirst of plunder. At the same time the evils suffered from them, and the loud complaints of neutrals, have caused various expedients to be resorted to for checking their excesses, while their use has been continued. The great increase and wider extent of commerce have added to the opportunities and the temptations for growing rich by this sort of authorized violence; and it has hitherto been found impossible to impose any effectual restraints upon forces of so low a character, and called into action by motives so unworthy and sordid.\*

1st April, 1602, and 28th January, 1631, and he adds, that the decrees of the 9th August, 1624, and 22d October, 1627, required all prizes to be brought into port before breaking bulk, "that the republic and others might not be defrauded of their due portion of the plunder."

\* Neal's History of the Puritans, ch. 12. Whitlocke says, "they granted letters of marque against all such as had taken up arms against the Parliament, or assisted the Irish rebels."—*Memorials*, p. 76, year 1643.

† July 19. New letters of marque granted by the States against the English. 12th August. A Dutch private man of war taken and sunk by two English ketches.—*Whitlocke*, pp. 539, 541, and see pages 545, 547.

‡ This may be inferred from the treaty made between the Dutch and Charles II. in 1674, which Postlethwait [*Dict. Art. Privateer*] says "is fit to be a standard to all nations." The preamble runs thus:

"and whereas the masters of merchant ships, and likewise the mariners and passengers, do sometimes suffer many cruelties and barbarous usages when they are brought under the power of ships which take prizes in time of war, the takers in an inhuman manner tormenting them, thereby to extort from them such confessions as they would have to be made, it is agreed that both his Majesty and the Lords, the States General, shall, by the severest proclamations or placarts, forbid all such heinous and inhuman offences," &c. There was an article with France to the same purport, in the Treaty of Utrecht.

\* Immediately after the war of 1756 had commenced,

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From this historical deduction, it appears, 1st. That the practice of privateering is truly what it has been called, "a remnant of the ancient piracy," and has its root and origin in the general license of plundering, which we justly regard as the vice of a barbarous and lawless age. 2d. That the public commissions, under which it is now carried on, were expedients adopted when the world began to assume a more regular and settled form; the first step towards a state of society more consistent with reason and humanity. 3d. That at first, letters of reprisals authorized the seizing of goods on the land, as well as at sea.\* 4th. That the first notice we have of privateering to any considerable extent, is the measure to which, in the outset of the war of the Netherlands, poverty and revenge drove the Prince of Orange; and that these privateers became notorious for their piratical depredations. If, before that it was practised by the French, it was not under circumstances more honorable, nor with less cruelty. 5th. That the practice has always continued to answer well to its original; privateers having been, in earlier and later times, the "scourges of neutral commerce," a continual theme of complaint to neutral Powers, the causes of new wars, subjects of negotiation in treaties, and of frequent restrictive laws; but still eluding all attempts to put a stop to their abuses, and reverting to their primitive character.

It is now time to turn our attention for a moment to the practice of war upon land, and here we are at once struck with a strange difference in conduct and opinions. It would seem that, while we have been growing more refined and generous in hostilities by land, we have certainly not improved, and, it is to be feared, have even become less attentive to considerations of equity and humanity, in our maritime warfare. We can claim, in this respect, no superiority over the men of two centuries ago. Like them, we set upon the peaceful merchant to rob him of his property, and if those to whom he has intrusted it defend it faithfully, we suffer no tenderness for life to keep us from our booty. On the land, do we ever hear of an honorable commander's delivering up to pillage a captured city, unless induced by some extraordinary violation of the rules of honorable warfare in the enemy? Does he ever seize the merchandise of the inhabitants, or disturb them in the exercise of their trades? Why, then, on the sea should captured ships and the goods they are freighted with, pursuing peacefully their course, and engaged in the useful interchange of the products of different lands, become a prey to the rapacious cruiser? The most that is allowed upon the land, is the exaction of a tribute, and even of this

we suspect the instances are becoming rare, and it is regarded as somewhat disgraceful. But even if the commander of an invading army forbears to touch any property, but that of the sovereign, what should we say if bands of private adventurers were commissioned to enter the enemy's borders to rob and pillage for their own profit? Should we not regard it much in the same light as we should the use of poison, or assassination, or infernal machines?\*

How, then, shall we reconcile this inconsistency? A late writer has, we think, given the true account of it. The jealousy of commerce has entered much into all the wars between maritime countries from the time of Cromwell's war with the Dutch. To exhaust the commercial resources of the enemy, and so to cripple his trade, that he may not be able to resume it upon fair terms of competition, when peace shall be restored, has been one of the objects proposed by one or the other of the belligerent Powers. Privateers, as the most destructive assailants of commerce, have, for this cause, been encouraged and protected, and the exemption granted upon the land to the property of peaceful subjects has been denied at sea. "From thence arises that striking inconclusiveness, † [inconsistency] which has been so frequently declaimed against, that whilst in wars on the continent, the civilized nations of Europe (so long as they do not betray that character) endeavor to make the burden of it fall as lightly as possible on the peaceable subjects of the enemy, and that they respect their property in consideration of a contribution levied by authorizing pillage only in some extraordinary cases, the barbarous practice has been retained, in maritime wars, of depriving hostile subjects of their ships and their cargoes by prohibiting now, almost universally, the acceptance of a ransom."‡—*Martens on Privateers*, p. 22.

That some cause, like that here suggested, has retarded the progress of civilization in the customs of maritime war, can hardly be doubted, when we consider how many of the most distinguished writers, ancient and modern, have declared their disapprobation of the practice of privateering. To begin with Albericus Gentilis, who was professor of law in one of the English universities, from the year 1582 to his death in 1608. Privateers, as we have seen, had then first began to be used to any considerable extent, and to be recognised by stipu-

\* As to what are unlawful arms, see Martens, *Précis du Droit des Gens*, t. ii. p. 351, and also as to the difference in the rules respecting property on land and at sea.

† We copy from the English translation, published in 1801.

‡ It appears that in Holland, by an edict of the Earl of Leicester, of 4th April, 1586, all captures, whether by land or sea, were brought before one tribunal, and the counsellors of the States of Holland formerly, as appears from their ancient forms in 1590, adjudged upon the plunder obtained by the soldiers on the land. But, says Bynkershoek, "I do not find this in their new form, 4th October, 1670, nor is it observed in practice."—*Quest. Jur. Pub.* lib. i. cap. 18.

the English privateers began to swarm in the Channel, and to commit depredations upon the commerce of friendly nations. The Dutch complained, and in 1759 an act was passed, prohibiting commissions to any vessel under one hundred tons burden and forty men.—*Smollett's Contin.* vol. vi. p. 151—294.

\* See letters granted by Edward I. ante, p. 175, and the form in Rymer, vol. iv. part 1. p. 161, French edition.

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lations in treaties.\* Gentilis, in his book *De Advocacione Hispanica*, speaks of them under no other name than "pirates," and will not admit them to be entitled to any better consideration. Grotius says it is worth inquiring how far the right of private captures may be carried, without violating internal justice or charity.† And after showing that, by the law of nature, no injustice is done to the enemy, if the plunder be confined to a compensation for the injury which caused the war, he adds that, "although justice, strictly speaking, may not be violated, yet there may be an offence against that moral duty which consists in loving others, as by the law of christianity we are especially commanded; as if it should appear that such depredation will fall, not upon the hostile commonwealth, or the sovereign, or those who are in themselves guilty, but upon the innocent, and that it will reduce them to such a measure of distress as it would not be lawful for us to inflict even upon our private debtors. But if, in addition to this, such depredation will neither be of great effect in putting an end to the war, nor in cutting off the enemy's strength, then, indeed, an honest man, and more especially a Christian, will scorn to profit by the calamity of the times."—*Lib. 3, chap. xviii.* § 4. From this and other passages of Grotius it cannot be doubted in what light he regarded privateering as in fact carried on. We have already quoted the opinion of Clarendon, than which none can be entitled to greater respect. The treatise of Molloy, *De Jure Maritimo*, was first published in 1676; many editions have been published since that time, and its reputation is deservedly great. "Most certain," says this writer, "these sorts of capers, or privateers, being instruments found out but of later ages, and it is well known by whom, it were well they were restrained by consent of all princes; since all good men account them but one remove from pirates, who, without any respect to the cause, or having any injury done them, or so much as hired for the service, spoil men and goods, making even a trade and calling of it, amidst the calamities of war."—*Book 1. chap. iii.* § 15. The compilation, entitled "Sea Laws," was published early in the last century. We find in it this passage: "Our laws take not much notice of these privateers, because the manner of warring is new and not very honorable, but the diligence of our enemies in this piratical way obliges us to be also as diligent for the preservation of our commerce."—p. 472. So Beawes, whose *Lex Mercat*

toria was compiled in 1750, "The use of these sort of vessels we were taught by our neighbors, and obliged by their example to encourage them," &c.—p. 207. Loccenius, who was professor at Upsal in 1670, seems, like Gentilis, to have known no distinction between privateering and piracy. His words are, "When a naval war is unavoidable, it is far better to assail the enemy with domestic levies or hired marines, under officers and discipline, or to depend on the aid of allies, than to give license to pirates, the vilest of mankind, who, once authorized to plunder, soon forget all restraint, and spare not even friends, nor those who have never injured them or their employers."\* If we come down to more modern times, we find Mably† and Galliani‡ supporting the justice and expediency of exempting commerce from the calamities of war. But especially Linguet, whose essay we would quote entire, if it were possible, has exposed, in the clearest manner, the absurd contradiction in practice, to which we have already referred.§ "It is," to use his words, "one among a thousand proofs of the confusion, barbarism, and extravagance of all our principles, of every sort. Whence comes this difference between fleets and armies, squadrons and regiments, corsairs and hus-sars?" He thus concludes a glowing description of the circumstances which principally give a character to privateering: "It is cowardly, for its object is to attack the unarmed; it is odious, for it has no other principle than a base self-interest; it is barbarous, for the flying merchant ship is compelled to submit by murderous broadsides; nor is it uncommon for a part of the crew, at the moment of striking the flag, to be slaughtered by the balls that brought the order for striking." Martens has expressed himself in language not less clear and decisive. "Glory and duty call an officer to fight the enemy, whenever the interest of his sovereign is concerned, and honor is the best reward for his labors and his dangers; it is not so with the privateer. Indifferent to the fate of the war, and often of his country, he has no other inducement but the love of gain, no other recompense but his captures and the prizes conferred by the State on his privileged piracies. To encourage individuals to fit out privateers at considerable expense, it is necessary to present them the allurements of a rich booty, and, by prescribing them a moderation, which they are fully determined not to observe, not to intimidate them by imposing on them too many restrictions."—p. 24. The opinion of Dr. Franklin we shall have occasion to quote

\* Bynkershoek, Q. J. P. lib. i, cap. 18, seems to refer the origin of privateering to the war of the United Provinces with Spain, for he mentions no earlier instance. "Olim in Belgio fœderato fuerunt privati, qui ipsi naves bellicas exercebant, quibusque, præter premia, ex captis et recuperatis navibus redacta, ex publico ærario numerabatur certa pecunia pro modo expensarum, et pro modo temporis, quo operam bellicam præstabant. Ille naves privatorum dicebantur *Kruysers*, usque adversus Hispanos cum maxime usi sunt Ordines Generales."

† "Id vero quatenus procedat, illæsa justitia interna et charitate, non immerito quæritur."—*Lib. 3. cap. xviii. § 2.*

\* "Sed et si belli maritimi necessitas incumbat, præstat delectis domesticis, aut militibus nauticis mercenariis, qui sub duce et disciplina degant, aut sociorum ope, quam colluvie pessimorum hominum, piratis, adversus hostes uti, qui licentiam spoliandi nacti, facile præscriptos fines excedunt; ut ne quidem amicis aut aliis, a quibus vel ipsi, vel eorum patroni nunquam læsi sunt, parcant."—*De Jure Mar. et Nav. lib. 2. cap. iii. § 4.*

† Droit Publicque, tome 2, cap. xii.

‡ Lib. 1, cap. 10.

§ See this able paper in *Annales Politiques*, tom. v, p. 518.

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hereafter. The apologists of privateering have, we believe, rested its defence on the sanction given to it by law, and have contented themselves with showing that there is a real and substantial distinction between privateers and pirates. Azuni, one of the latest and most distinguished of these apologists, after mentioning the opinions of Galiani and Mably, adds, that he respects their opinion, and would adopt it "if he were speaking as a mere philosopher."

It is wonderful, when we consider how much the commerce of neutrals has suffered from privateers, that more frequent efforts have not been made to put a stop to the practice by the general consent of nations. Our own history furnishes, indeed, a fact which cannot fail to gratify the feelings of an American. "As early," says the Memorial before us, "as 1785, the celebrated philosopher, Dr. Franklin, in a letter to a friend, observed that the 'United States, though better situated than any other nation to profit by privateering, are, as far as in them lies, endeavoring to abolish the practice, by offering, in all their treaties with other Powers, an article engaging solemnly that, in case of a future war, no privateer shall be commissioned on either side, and that unarmed merchant ships on both sides shall pursue their voyages unmolested.'"—Page 6.\* It was accordingly stipulated in the twenty-third article of the treaty with Prussia, in 1785, as follows:

"And all merchant and trading vessels employed in exchanging the products of different places, and thereby rendering the necessities, conveniences, and comforts of human life more easy to be obtained, and more general, shall be allowed to pass free and unmolested; and neither of the contracting Powers shall grant or issue any commission to any private armed vessels, empowering them to take or destroy such trading vessels, or interrupt such commerce."

Martens† has taken notice of this article, adding that this "example, worthy of imitation, has not been hitherto followed by other States." Doctor Franklin, to whom, doubtless, the credit of this humane scheme belongs, has elsewhere expressed his opinion in emphatic terms. The author of the Appeal, mentioned at the head of this article, quotes a passage from the propositions relative to privateering, communicated by Doctor Franklin to Mr. Oswald, January 14, 1783, in which the principal reasons of policy for abolishing the practice are forcibly stated.

"It is for the interest of humanity in general that the occasions of war, and the inducements to it, should be diminished. If rapine is abolished, one of the encouragements to war is taken away, and peace, therefore, more likely to continue and

be lasting. The practice of robbing merchants on the high seas, a remnant of the ancient piracy, though it may be accidentally beneficial to particular persons, is far from being profitable to all engaged in it, or to the nation that authorizes it. In the beginning of a war some rich ships, not upon their guard, are surprised and taken. This encourages the first adventurers to fit out more armed vessels, and many others to do the same. But the enemy, at the same time, become more careful, arm their merchant ships better, and render them not so easy to be taken; they go also more under the protection of convoys; thus, while the privateers to take them are multiplied, the vessels subject to be taken, and the chances of profit, are diminished, so that many cruises are made wherein the expenses overgo the gains; and, as is the case in other lotteries, though particulars have got prizes, the mass of adventurers are losers, the whole expense of fitting out all the privateers, during a war, being much greater than the whole amount of goods taken. Then there is the national loss of all the labor of so many men during the time they have been employed in robbing, who, besides spending what they get in riot, drunkenness, and debauchery, lose their habits of industry, are rarely fit for any sober business after peace, and serve only to increase the number of highwaymen and housebreakers. Even the undertakers, who have been fortunate, are, by sudden wealth, led into expensive living; the habit of which continues when the means of supporting it cease, and finally ruins them; a just punishment for their having wantonly and unfeelingly ruined many honest, innocent traders and families, whose subsistence was obtained in serving the common interests of mankind."

And in a letter to David Hartley, Esq., May 8, 1783—

"I do not wish to see a new Barbary rising in America, and our long-extended coast occupied by piratical States. I fear lest our privateering success in the two last wars should already have given our people too strong a relish for that most mischievous kind of gaming mixed with blood."—*Private Correspondence*, p. 530. *Appeal*, p. 9.

The motives for abolishing this practice are so many that we hardly know where to begin stating them. If it were not in itself unjust and immoral, we would urge upon nations its inconsistency even with an enlightened policy; we would show that it can never be productive of any real advantage to either party in the war; we would call to mind the many seamen who are thrown by it into prisons, and thus taken from the service of their country; \* we would speak of the difficulty of procuring sailors to man the fleets, or defend the coasts from invasion, when they are lured by the hope of plunder to embark in long and distant cruises; we

\* Letter to B. Vaughan, Esq. Franklin's works, vol. ii. p. 448.

† Essay on Privateers, p. 31, note. The only instance of a similar attempt, mentioned by him, is that of the agreement between Sweden and the United Provinces, when at war in 1675, that neither they nor their allies should make use of privateers, but the agreement was not performed.

\* It is said that, at the close of the war ending by the peace of Amiens in 1801, there were 30,000 French sailors in English prisons. (Bonnemant's D'Abreu, note, page 27.) It is well known what numbers of our seamen were thus lost to us for the time in the late war with England.

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would insist upon the discouragement of the naval service by the higher privileges which are granted to privateers; we would bring into view the loss of life, and the distress and poverty brought upon the families of seamen; we would ask for an instance in which privateers can be fairly said to have given essential aid in the prosecution of the war, or to have produced any serious impression upon the enemy's resources and strength; we would refer to the ill-will and jealousy excited in neutral nations by the vexation to which their commerce is exposed, from the eagerness of these marauders, and their unwillingness to return from a cruise without some evidence of vigilance and success. Lastly, we would leave it to history to decide, and challenge the experience of every nation, that has employed privateers in war, whether, on the whole, the national strength has not been impaired, and its resources diminished, by this expense of its treasure and force in the pursuit of pillage.\*

Let these considerations be duly weighed by those, who allow of no rule for the conduct of nations, but the greater or less profit to themselves, or injury to their enemies, which this conduct may seem likely to produce. Let them reflect upon the words of Franklin, and remember that his opinion and his remarks were founded on experience acquired in a war, in which perhaps, if ever, privateering was a powerful means of annoyance in the hands of one of the parties. With those, who believe that the true interests of a nation can never be separated from a strict regard to religion and moral duty, there are other arguments of greater weight, than any which terminate in mere policy. With them it is enough to determine any action to be impolitic, to know that it is unjust.

What judgment, then, must we pass upon privateering, if we test it by the rules of a sound morality? We ask not, what will be its fate if judged of by the high dictates of high and honorable feeling, of that elevated morality, which rises far above the ordinary sense of right and wrong, as it is found in the mass of men; we ask not that it should be condemned or absolved by the sentence of a nice and scrupulous conscience; we are ready to put the question fairly to the grossest and least reflecting of mankind, be they only honest and unperverted; and we doubt not, that when brought to view the subject in its proper light, stripped of the cloak which law and custom may have lent to it, the most uncultivated conscience will pronounce it unjust and disgraceful to grow rich upon the spoils of the innocent, to gather by violence the fruits of another's industry. If upon the breaking out of a war, every debtor should be declared released from debts due to the subjects of the hostile State, would that man be thought to possess common honesty, who would profit by

such an advantage? But how much more palpable is the injustice of attacking, and bearing away as prize, the property of that enemy, not found in our own territory, but upon the ocean, the common highway of nations? Let it not, then, be said that the law of war has made it yours, and annulled the rights of its former possessor. This law is not the law of reason or conscience. It is a custom which has grown out of the selfish and revengeful passions of men, and has been handed down from age to age, receiving now and then some mitigations, by which it has approached nearer to what is suited to a rational nature, but still it is founded in violence, and only one of the few remains of the right of the strongest. Grant that war is not in itself unlawful. Yet, in a ruder age than the present, it was said by one, who admitted the lawfulness of war, 'militare non est delictum, sed propter prædam militare, peccatum est.\*' Of the justness of this distinction, who can doubt? It is the motive which determines the character of the action. And what motive has the privateersman but plunder?†

Let us once more try this question by the principles of national law, as they are stated by Grotius and others, whose works are of acknowledged authority. It is in the first place to be observed, that there is no pretence of justice to support the practice of capturing private property in war, but what is founded on one or the other of the following principles: 1. That the wrong done extends to every subject of the injured State, and vests in him the same rights, as if that wrong were personal, and that every subject of the offending State is equally responsible in person and property for the injury done by his Government, or a fellow-subject, as if he were personally guilty. 2. That each party in the war is to be considered, as it respects other nations, to have a just cause of war. 3. That the war being just, every subject, having the authority of his Government, may pursue the enemy in all the modes of lawful warfare,

\* St. Augustin. Canon. Militare, 59, 1. "It is not a crime to war, but to war for plunder is sinful."

† In the letter before quoted of Dr. Franklin to B. Vaughan, Esq., (Works, vol. ii. p. 448,) are two instances of the judgment of an impartial conscience upon this subject: one of a Quaker gentleman, who was part owner of a ship, which the other owners thought proper to fit out as a letter of marque, and which took several French prizes. He took his share of booty, but employed an agent to find out by advertisement who were the sufferers, that he might restore what had come to him. The other is of the Scotch presbyterians, who, soon after the reformation, made an ordinance of the town council of Edinburgh, which is extant, "forbidding the purchase of prize goods, under pain of losing the freedom of his burgh forever, with other punishment at the will of the magistrates; the practice of making prizes being contrary to good conscience, and the rule of treating Christian brethren as we would wish to be treated; and such goods are not to be sold by any Christian men within this burgh." This, it will be remarked, extends to all captures.

\* The French editor of D'Abreu's treatise on Prize Law has strongly expressed the opinion that it is a mistake to ascribe great efficacy to privateers in war. See note, p. 27, Bonnemant's translation.



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if he do it at his own expense, may acquire property to his own use.\*

But it is not, nor was it in the age of Grotius, pretended, that the right over the person and property of the enemy is unlimited. And, if we mistake not, these limitations will be found to be established as part of the national code: 1. That the right to kill is limited to cases of extreme necessity, for the preservation of life and property, "and even this last," says Grotius, "to put men to death for the sake of perishable and uncertain possessions, though in strictness it may stand with justice, is irreconcilable with the law of charity." 2. That even in a just war, if more is taken than an equivalent for the debt, or the injury is either unjust, or else it is to be kept by way of pledge or security, without any change of property, and to be restored when justice has been obtained. *Grot. lib. 3. cap. xiii. § 1.* 3. That certain classes of persons, among whom are cultivators of the earth and merchants, are to be spared.—*Lib. 3. cap. xi. § 10. and cap. xiii. § 4.* 4. That where the object of war is to obtain restitution of what belongs to us, all the subjects are to be considered as sureties one for another; but where the object is to punish, none but the magistrates, who have refused to inflict punishment themselves, and actual offenders, can justly be made to suffer.—*Lib. 3. cap. xiii. § 1.* 5. That the right of recourse to the goods of the innocent is only subsidiary, and humanity requires that we should not make use of it as long as there is a hope of obtaining justice without it.—*Lib. 3. cap. xiii. § 4.* 6. That we have no right to lay waste or destroy, unless with the design and reasonable hope of thereby promoting peace; and that if the same purpose can be otherwise effected, we have no longer this right.†

Now all these principles are violated by the practice of privateering; it assumes a right to kill, not for defending, but to obtain property; it has no regard to the injury done, but seizes whatever falls in its way, and that, not for the use of those who may have suffered from the depredations of the enemy, but for the profit of those concerned in the cruise; it has nothing to do with restitution, but takes with no other intent than to enjoy a *plenum dominium* over the thing taken, be its value ever so great; it spares no class, much less the merchant, against whom all its attacks are directed; it regards all the enemy's subjects as game to be hunted, without any concern, who may have been the authors of the war; it hears to no distinctions between the innocent and guilty, debtors and sureties, primary or subsidiary rights; it understands nothing, but that as much wealth is to be gotten as can be with impunity.

It would be easy to enlarge upon some of these topics, but the unexpected length of this article obliges us to abridge the argument. The distinction between those who bear arms and those who

are engaged in peaceful occupations, and the principle that the latter are to suffer no more of the evils of the war than may be absolutely unavoidable, are now universally recognised. It is only in maritime warfare that they are not adopted in practice. The exemption, as it prevails in hostilities by land, comprehends all those whose occupations are of a peaceful sort: "*quorum quæstus pacem amat, non pellum.*" It extends, of course, to those whose business it is to supply, by a mutual interchange, the wants of different countries. How it should happen that, the moment the merchant embarks his property upon the ocean—the moment he begins to exercise his trade in the very way in which it yields most benefit to the world, he loses the protection of all laws, and meets the same treatment, as to his property, with the pirate, whose ship is loaded with the gains of violence and treachery, is indeed unaccountable upon any supposition consistent with fairness and equity. "The canon," says Grotius, in enumerating the exempted classes, "adds also merchants; not merely those who have a temporary residence in the enemy's country, but those who owe him perpetual allegiance, '*nam eorum vita ab armis aliena est.*'" Many of the opinions we have quoted go to the entire neutrality of commerce; and this would be only extending to these the humane principles long since adopted on the land. The article already cited from our treaty with Prussia has been understood as giving protection against public as well as private ships.\* Many of the evils connected with privateering are equally to be feared from public captures: the effects upon the habits and morals of seamen will be nearly the same; the cruelty and injustice are the same. A French writer, of the year 1744, has asked "would it not, then, be possible to revive the ancient custom of commercial truces, and to make war without involving in it commerce and mercantile navigation?"† It may be objected that, the greater the sufferings connected with wars the less ready will nations be to enter into them, and the sooner will they be disposed to return to a state of peace. But surely the experience of the world is against this. Wars were not less frequent, nor less obstinate, when it was thought lawful to enslave prisoners, to sack towns, and to put to the sword a garrison which defended itself to the last extremity. The argument would justify every degree of cruelty; it would justify the poisoning of streams, and the employment of assassins; it would introduce a law no better than that of the Mohawks. But if to make prize of the property of the innocent is in itself opposed to equity and good conscience, it deserves a double reproach when it is allowed to be done by privateers. Powers, in their nature oppressive, ought not to be committed to instruments so certain to make them more odious by abuse.‡ A Russian treaty, of 1801, § prohibits to

\* Grotius, lib. 3. cap. vi. Puffendorf, lib. 8. cap. vi. De Jure Nat. et Gent. lib. 2. cap. xvi. § 10. et seq. De Officio Hom. &c. Martens, Droit des Gens, liv. 8. chap. iii.

† Martens, Précis. &c., tome ii. p. 349.

\* Martens, Précis, &c., tome 2, p. 352, note.

† Examen de l'Essai sur la Marine, p. 181.

‡ Jus hoc mutandi per vim domini odiosius est, quam ut produci debeat.—Grotius, lib. 3, cap 6, sec. 5.

§ Convention with G. Britain, June 17, 1801, art. 4.

privateers the right of searching ships sailing under convoy. This cures some part of the evil, and it shows the light in which privateers are viewed. But the same reason should induce the entire suppression of them.

In all that we have hitherto said, we have gone upon the supposition that there is a just cause of war. But, in every war, one party or the other must be fighting in support of an unjust cause. Terrible, indeed, is the guilt of the subject who, with no other end than private gain, attacks, kills, and robs the enemy, if, in doing this, he is at the same time abetting injustice and fraud. Grotius holds to complete restitution every general and soldier, who, in an unjust war, has assisted in the work of destruction.—*Lib. 3, cap. 10, sec. 3, &c.* Who, then, in any war, can feel so assured that his country is in no respect chargeable with injustice or rashness as to be willing, for the sake of plunder, to incur the hazard of so great a guilt? What Government can be excused in encouraging its subjects to put their integrity to so perilous a trial? And if there is guilt in fighting for a cause which we know to be unjust, is there not also guilt in plundering in one which we are not sure is just?

We had something to say of the effects of privateering upon the morals of the community, and more especially of seamen; of the taste which it gives for violence and bloodshed; of its breaking down the barriers by which property is defended; of its tendency to annihilate the distinction of mine and thine. But these consequences are too obvious, and have been proved by too recent experience, to need that we should labor to enforce them. They spring up in our path; they meet our view wherever we go; the land and the sea send forth their reports of murders and piracies, and daring robberies, as if the outcasts of society had become emulous of glory, and resolved to hide the disgrace in the magnitude and boldness of their crimes.

It is the laudable purpose of the writer of the Appeal to call the attention of the proper authorities in the United States to the numberless depredations committed upon the ocean by ships fitted out in our own ports, and sometimes, it is to be feared, by our own citizens. He has diligently collected the statements of writers on the laws of nations, and the provisions of the British and French laws in relation to piracies, and the accepting of commissions from foreign Powers; and he has reviewed our own laws for preventing armaments against nations at peace with us, pointed out their insufficiency, and endeavored to awaken attention to the importance of new restraints and prohibitions, and a more vigilant and thorough execution of those already existing. For all this he deserves the thanks of the public. Whatever may be thought of cruising against the enemies of our own country, there are few, we trust, who will not agree with Vattel, "that for strangers it is a shameful trade to take commissions from a foreign Government, for cruising against a nation perfectly innocent in regard to them. The thirst for gold is their only motive; and the com-

mission they receive, however it may screen them from punishment, cannot wipe off their infamy."<sup>\*</sup> It is agreed by all nations that a cruiser furnished with commissions from two different sovereigns is to be treated as a pirate. Much of the reasoning in support of this principle would extend equally to the acceptance of any commission from a foreign belligerent against a nation at peace with us.<sup>†</sup>

The Memorial, of which we have also spoken, contains a concise and impressive view of the character and consequences of the practice of privateering. It was our intention to avail ourselves of one or two extracts from it, but we have already exceeded our limits.

It may be expected that we should say something of the practicability of the measure proposed. We must, however, content ourselves with remarking that there cannot be reason to despair of what all commercial nations must feel it to be their interest, by mutual stipulations, to effect. The United States, as a great commercial people, disposed by habit and interest to peace, have every inducement, however great may be their local advantages for the carrying on a predatory warfare, to enter into such an arrangement. Great Britain can expect no benefit from the continuance of the practice of privateering. Holland, France, and Spain, have too much interest in the revival of their fallen commerce not to acquiesce cheerfully in a proposal which takes away one of its greatest vexations. Russia, Sweden, and Denmark, are friends to the freedom of commerce; and it is a remarkable and encouraging fact, that Russia made no use of privateers in the Archipelago in her war with Turkey, 1767 and 1774.

We are disposed to think well enough of mankind to believe that there is something in this practice too harsh and illiberal to be much longer borne in the present improved state of knowledge and manners. We trust the time is coming when the greater part of the civilized world will feel the truth of these words of Clarendon: "Indeed, it must be a very savage appetite that engages men to take so much pains, and to run so many and great hazards, only to be cruel to those whom they are able to oppress."<sup>‡</sup>

#### REPORT RELATIVE TO APPROPRIATIONS OF PUBLIC LAND FOR THE PURPOSES OF EDUCATION—

*Made to the Senate of Maryland, January 30, 1821.*

The committee to whom was referred so much of the Governor's message as relates to education and public instruction beg leave to report—

That they concur with his Excellency in believing education, and a general diffusion of knowledge, in a Government constituted like ours, to be of great importance, and that "in proportion

<sup>\*</sup> Vattel, liv. 3, ch. 15, sec. 229.

<sup>†</sup> See, as to double commissions, D'Abreu, part ii., page 2: Bonnemant's translation.

<sup>‡</sup> Tracts, page 206.

as the structure of a Government gives weight to public opinion, it is essential that public opinion should be enlightened." Your committee consider our Government as emphatically a Government of opinion. A general diffusion of knowledge, which is essential to its right administration, cannot be effected, unless the people are educated. No high degree of civilization, of moral power and dignity, or of intellectual excellence; no superiority in science, in literature, or in liberal and useful arts, which constitutes the noblest national supremacy, can be attained without the aid of seminaries of learning. The establishment of literary institutions, then, of all grades, from the common school up to the university, becomes the first duty of the legislature of a free people.

Your committee are well aware of the difficulty, in the present embarrassed state of our pecuniary concerns, of providing the means of making education general. They are fully sensible that, at this time, large appropriations out of the public Treasury for this purpose, all important as it is, cannot be expected. They deem it therefore their duty to recall to your notice a report and certain resolutions, presented to the Senate at the last session by a committee of a like nature with the present, which has been referred to your committee, as a part of the unfinished business. The object of those resolutions was to call the attention of Congress, and the Legislatures of the several States, to the public land, as a fund, from which appropriations for the purposes of education may with justice be claimed, not only by Maryland, but all the original States, and three of the new ones.

One thirty-sixth part of all the States and Territories, (except Kentucky,) whose waters fall into the Mississippi and the Gulf of Mexico, has been appropriated by Congress, wherever the Indian title has been extinguished, and provisions made for further appropriations, according to the same ratio, wherever the Indian title may hereafter be extinguished, for the support of common schools, and other large appropriations have been made for the support of seminaries of a higher grade. Your committee are of opinion that the States, for whose benefit no such appropriations have been made, are entitled to ask them of Congress, not as a matter of favor, but of justice. That this may more fully appear, especially as the right of those States to an equal participation with the States, formed out of the public lands, in all the benefits derived from them, has been doubted, your committee have deemed it proper to take a cursory view of the manner in which they have been acquired.

Before the war of the Revolution, and indeed for some years after it, several of the States possessed, within their nominal limits, extensive tracts of waste and unsettled lands. These States were all, at that epoch, regal and not proprietary provinces, and the Crown, either directly or through the medium of officers, whose authority had been prescribed or assented to by the Crown, was in the habit of granting those lands. The right of disposing of them was claimed and exercised by

the Crown in some form or other. They might, therefore, with strict propriety, be called the property of the Crown.

A question arose soon after the Declaration of Independence, whether those lands should belong to the United States, or to the individual States, within whose nominal limits they were situated.

However that question might be decided, no doubt could be entertained, that the property and jurisdiction of the soil were acquired by the common sword, purse, and blood of all the States, united in a common effort. Justice, therefore, demanded that, considered in the light of property, the vacant lands should be sold to defray the expenses incurred in the contest by which they were obtained; and the future harmony of the States required that the extent and ultimate population of the several States should not be so disproportionate as they would be if their nominal limits should be retained.

This State, as early as the 30th of October, 1776, expressed its decided opinion, in relation to the vacant lands, by an unanimous resolution of the convention, which framed our Constitution and form of Government, in the following words, viz. "*Resolved, unanimously*, That it is the opinion of this convention, that the very extensive claim of the State of Virginia to the back lands hath no foundation in justice, and that if the same, or any like claim is admitted, the freedom of the smaller States and the liberties of America may be thereby greatly endangered; this convention being firmly persuaded that, if the dominion over those lands should be established by the blood and treasure of the United States, such lands ought to be considered as a common stock, to be parcelled out, at proper times, into convenient, free, and independent governments."

In the years 1777 and 1778, the General Assembly, by resolves and instructions to their delegates in Congress, expressed their sentiments in support of their claim to a participation in these lands, in a still stronger language, and declined acceding to the Confederation, on account of the refusal of the States claiming them exclusively to cede them to the United States. They continued to decline, on the same grounds, until 1781, when, to prevent the injurious impression, that dissension existed among the States, occasioned by the refusal of Maryland to join the Confederation, they authorized their delegates in Congress to subscribe the articles; protesting, however, at the same time against the inference, (which might otherwise have been drawn,) that Maryland had relinquished its claim to a participation in the Western lands.

Most of the other States contended on similar grounds with those taken by Maryland for a participation in those lands.

By the Treaty of Peace in 1783, Great Britain relinquished "to the United States all claim to the government, property, and territorial rights of the same, and every part thereof."

The justice and sound policy of ceding the unsettled lands, urged with great earnestness and force by those States, which had united in conquering them from Great Britain, strengthened by

the surrender on the part of Great Britain of her rights of property and jurisdiction to the United States collectively, and aided, moreover, by the elevated and patriotic spirit of disinterestedness and conciliation, which then animated the whole Confederation, at length made the requisite impression upon the States which had exclusively claimed those lands; and each of them, with the exception of Georgia, made cessions of their respective claims within a few years after the peace. Those States were Massachusetts, Connecticut, New York, Virginia, North Carolina, and South Carolina, the charters of which, with the exception of New York, extended westwardly to the South Sea or Pacific ocean. This circumstance gave to Massachusetts and Connecticut a joint claim with Virginia, to such parts of what was then called the Northwestern Territory, as came within the breadth of the charter of Virginia. New York, indeed, had an indefinite claim to a part of it. Cessions, however, from all these States, at length completed the title of the United States, and placed it beyond all controversy.

The State of North Carolina ceded its claim to the territory which now constitutes the State of Tennessee.

Georgia (whose charter also extended westwardly to the Pacific Ocean) at length, in 1802, ceded the territory which now constitutes the States of Mississippi and Alabama, except a small part on the south side of them, which was acquired under the treaty ceding Louisiana. The conditions of that cession were, that the United States should pay one million two hundred thousand dollars to Georgia, and extinguish the Indian title within the limits which she reserved.

The United States have, in this manner, acquired an indisputable title to all the public lands east of the Mississippi.

All the territory west of the Mississippi, together with the southern extremity of the States of Mississippi and Alabama, was purchased of France for fifteen millions of dollars. This sum, as well as the sums required for the purchase of the Indian title to the public lands, was paid out of the Treasury of the United States.

So far, therefore, as acquisition of public lands has been made by purchase, it has been at the common expense; so far as it has been made by war, it has been by the common force; and so far as it has been made by cessions from individual States, it has been upon the ground, expressly stipulated in most of the acts or deeds of cession, that the lands should be "considered," to use the words of the act passed for that purpose by the State which made the largest cession, "as a common fund, for the use and benefit of such of the States as have become, or shall become, members of the Confederation or Federal alliance of said States, according to their usual respective proportions in the general charge and expenditure, and shall faithfully and bona fide be disposed of for that purpose, and for no other use or purpose whatsoever."

In whatever point of view, therefore, the public lands are considered, whether as acquired by pur-

chase, conquest, or cession, they are emphatically the common property of the Union. They ought to inure, therefore, to the common use and benefit of *all* the States, in just proportions, and cannot be appropriated to the use and benefit of any *particular* State or States, to the exclusion of the others, without an infringement of the principles upon which cessions from States are expressly made, and a violation of the spirit of our national compact, as well as the principles of justice and sound policy.

So far as these lands have been sold, and the proceeds been received into the National Treasury, all the States have derived a justly proportionate benefit from them. So far as they have been appropriated for purposes of defence, there is no ground for complaint, for the defence of every part of the country is a common concern. So far, in a word, as the proceeds have been applied to *national*, and not to *State* purposes, although the expenditure may have been local, the course of the General Government has been consonant to the principles and spirit of the Federal Constitution. But so far as appropriations have been made, in favor of any State or States, to the exclusion of the rest, where the appropriations would have been beneficial, and might have been extended to all alike, your committee conceive there has been a departure from that line of policy, which impartial justice, so essential to the peace, harmony, and stability of the Union, imperiously prescribes.

Your committee, then, proceed to inquire, whether the act of Congress, in relation to appropriations of public lands, have been conformable to the dictates of impartial justice.

By the laws relating to the survey and sale of the public lands, one thirty-sixth part of them has been reserved and appropriated in perpetuity for the support of common schools. The public lands are laid off into townships, six miles square, by lines running with the cardinal points: these townships are then divided into thirty-six sections, each a mile square, and containing 640 acres, which are designated by numbers. Section number 16, which is always a central section, has invariably been appropriated (and provision has been made by law for the like appropriations in future surveys) for the support of common schools in each township.

In Tennessee, in addition to the appropriation of a section in each township for common schools, 200,000 acres have been assigned for the endowment of colleges and academies. Large appropriations have also been made in Ohio, Indiana, Illinois, Mississippi, Alabama, Louisiana, Missouri, Michigan, and the Northwestern Territory, for the erection and maintenance of seminaries of learning, of a higher grade than common schools. Your committee have not had an opportunity of ascertaining the exact amount of those appropriations, but, from such examination as they have been able to make, it is believed that they bear a smaller proportion to those of common schools, than in Tennessee. Tennessee, in Seybert's Statistical Annals, is stated to contain 40,000 square miles, which are equal to 25,600,000 acres. One thirty-sixth part of this number of acres, which is the

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amount of appropriation for common schools, is 711,111. The appropriation for colleges and academies in that State is, as above stated, 200,000 acres, being something less than two-sevenths of the common school appropriation. It is believed that the appropriations in the other States and Territories for seminaries of a higher grade, do not amount to more than two-tenths or one-fifth of the appropriations for common schools. Your committee think they will not be far from the truth in estimating them at that proportion.

The States and Territories east of the Mississippi, which have had appropriations made in their favor for the support of literary institutions; that is to say, Ohio, Indiana, Illinois, Mississippi, Alabama, Michigan, and the Northwestern Territory, are estimated, in Seybert's Statistical Annals, to contain of unsold lands - - - - - 200,000,000  
Of lands sold - - - - - 11,697,125  
To which add Tennessee - - - - - 25,600,000

And the aggregate number of acres in those States will be - - - - - 237,297,125

One thirty-sixth part of that aggregate number being the amount of appropriation for common schools, is - - - - - 6,591,586

Add one-fifth part of the common school appropriation as the appropriation for colleges and academies - - - - - 1,318,317

And the aggregate number of acres appropriated for the purposes of education in Ohio, Indiana, Illinois, Tennessee, Mississippi, Alabama, Michigan, and the Northwestern Territory, will be - - - - - 7,909,803

At two dollars per acre, which is less, according to Seybert's Statistical Annals, than the average price of all the public lands, which have heretofore been sold, the amount in money will be - - - - - \$15,819 806

Seybert estimates the lands purchased of France by the United States in 1803, at acres 200,000,000

By the laws relating to the survey and sales of lands in Louisiana, Missouri, and Arkansas, appropriations of lands for the purposes of education have been made after the same ratio, as in the new States and Territories on the east of the Mississippi, and it is presumed the same policy will be adhered to in relation to the whole of the public lands on the west of that river. On that supposition the appropriations for common schools, that is, one thirty-sixth part of 200,000,000 acres will be 5,555,555  
Add for colleges and academies one-fifth part of the appropriations for common schools - - - - - 1,111,111

And the aggregate number of acres will be - - - - - 6,666,666

At \$2 per acre, the amount in money will be - - - - - \$13,333,333

To the aggregate number of acres appropriated for the support of literary institutions on the east side of the Mississippi - - - - - 7,909,903

Add the aggregate number of acres which, if the system heretofore followed should be (as it ought to be) adhered to, will ultimately be appropriated for literary purposes on the west of the Mississippi 6,666,666

And the total literary appropriation, in the new States and Territories, will be - - - - - Acres 14,576,569

At \$2 per acre, the amount in money will be - - - - - \$29,153,130

Such is the vast amount of property destined for the support and encouragement of learning in the States and Territories carved out of the public lands. These large appropriations of land, the common property of the Union, will inure to the exclusive benefit of those States and territories. They are appropriations for State, and not for national purposes; they are of such a nature that they might have been extended to all the States; they therefore ought to have been thus extended. All the other States paid their full share for the purchase of the region west of the Mississippi, and for the extinguishment of the Indian title, on both sides of that river. Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, and Georgia, besides paying their proportion of those expenses, ceded all their vacant territory on the east side of the Mississippi. All these States, therefore, might, with great propriety, complain of partiality and injustice, if their applications to Congress for similar appropriations for like purposes should be refused.

But of this refusal they need have no apprehension, if they are true to their own interests, and are united in asserting them; for if, contrary to all reasonable expectation, the States which have already received the benefit of literary appropriations, should be opposed to the extension of them to their sister States, the latter are more than two-thirds in number of all the United States, and have a still larger proportion of representatives in Congress. These States are, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Kentucky; and together have one hundred and sixty-nine representatives in Congress. The favored States, on the contrary, have only seventeen representatives. The excluded States have therefore an overwhelming majority in Congress, and have it completely in their power to make appropriations for the benefit of their literary institutions, upon the improbable supposition, that the representatives of the favored States would oppose them in Congress; a supposition too discreditable to their character for justice to be admitted.

The magnitude of the appropriation that would be required to place the States which have not yet enjoyed any for the purposes of education, upon an equal footing with those in whose favor they

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have already been made, can afford no just ground of objection. For, superior as the population of those States is, yet if the ratio of appropriation be observed with regard to them which has been adopted in relation to the others, *i. e.* one thirty-sixth part of the number of acres in the territory of each for common schools, and one fifth part of that one thirty-sixth for colleges and academies, the number of acres required will be much less than has already been given to the favored States and Territories; it will indeed amount to but a very small portion of the public lands. For, according to Seybert's Statistical Annals, those lands, in 1813, amounted to 400,000,000 acres. The amount required for all the excluded States would be less than two and a half per centum of that quantity. To show which more clearly, your committee beg leave to submit the following statement, founded upon calculations made upon the extent of territory in each of those States, as laid down in Seybert's Statistical Annals:

New Hampshire contains 6,074,240 acres.	
One 36th part of that extent, being the number of acres of public land to which that State is entitled for the support of common schools, is	168,728 acres.
One 5th part of that 36th to which New Hampshire is entitled for the support of colleges and academies, is	33,745
<b>Total for New Hampshire</b>	<b>202,473</b>
Vermont contains 6,551,680 acres.	
One 36th part, for common schools is	181,999
One 5th of one 36th, for colleges and academies	36,398
<b>Total for Vermont</b>	<b>218,389</b>
Massachusetts, including Maine, contains 28,990,000 acres.	
One 36th part, for common schools	805,277
One 5th of one 36th, for colleges and academies	161,055
<b>Total for Massachusetts and Maine</b>	<b>966,332</b>
Rhode Island contains 1,011,200 acres.	
One 36th part, for common schools	28,088
One 5th of one 36th, for colleges	5,617
<b>Total for Rhode Island</b>	<b>33,705</b>
Connecticut contains 2,991,360 acres.	
One 36th part, for common schools	83,093
One 5th of one 36th, for colleges and academies	16,618
<b>Total for Connecticut</b>	<b>99,711</b>
New York contains 28,800,000 acres.	
One 36th part, for common schools	800,00
One 5th of one 36th, for colleges and academies	160,000
<b>Total for New York</b>	<b>960,000</b>
New Jersey contains 5,325,800 acres.	

One 36th part, for common schools	144,577
One 5th part of one 36th, for colleges and academies	28,917
<b>Total for New Jersey</b>	<b>173,494</b>
Pennsylvania contains 29,872,000 acres.	
One 36th part, for common schools	829,777
One 5th of one 36th, for colleges and academies	165,955
<b>Total for Pennsylvania</b>	<b>995,732</b>
Delaware contains 1,356,800 acres.	
One 36th part, for common schools	37,688
One 5th of one 36th, for colleges and academies	7,537
<b>Total for Delaware</b>	<b>45,225</b>
Maryland contains 8,960,000 acres.	
One 36th part, for common schools	248,888
One 5th of one 36th, for colleges and academies	49,777
<b>Total for Maryland</b>	<b>298,665</b>
Virginia contains 44,800,000 acres.	
One 36th part, for common schools	1,244,444
One 5th of one 36th, for colleges and academies	248,888
<b>Total for Virginia</b>	<b>1,493,332</b>
North Carolina contains 29,720,000 acres.	
One 36th part, for common schools	825,555
One 5th of one 36th, for colleges and academies	166,111
<b>Total for North Carolina</b>	<b>990,666</b>
South Carolina contains 15,411,200 acres.	
One 36th part, for common schools	452,808
One 5th of one 36th, for colleges and academies	85,617
<b>Total for South Carolina</b>	<b>513,705</b>
Georgia contains 39,680,000 acres.	
One 36th part, for common schools	1,102,222
One 5th of one 36th, for colleges and academies	220,444
<b>Total for Georgia</b>	<b>1,322,666</b>
Kentucky contains 32,000,000 acres.	
One 36th part, for common schools	888,888
One 5th of one 36th, for colleges and academies	177,777
<b>Total for Kentucky</b>	<b>1,066,665</b>
Total amount of literary appropriation necessary to do justice to the States which have not yet had any	9,370,760

The Senate will perceive, from the foregoing calculations, that, if the ratio of appropriation for the purposes of education which has hitherto been observed be adopted with respect to the sixteen States which as yet have received no appropriations of that nature, a much smaller number of acres will be required than has already been as-

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signed to the western region of our country: it would be an inconsiderable portion of the aggregate of public lands: a much less quantity, indeed, than now remains unsold in any of the States which have been formed out of them, with the exception perhaps of Ohio and Tennessee. The magnitude of the appropriations, then, which equal justice now requires, cannot be considered as a reasonable objection to them; and, as the literary appropriations that have heretofore been made, have been granted for State, and not for National purposes, according to the just principle set forth in the beginning of this report, similar appropriations ought to be extended to all the States.

The circumstance, that the lands which have heretofore been appropriated for the purposes of education are a part of the territory of the States for whose benefit they have been assigned, can furnish no reasonable ground for the preference which has been given them. The public lands are not the less the common property of all the States because they are situated within the jurisdictional limits of the States and Territories which have been formed out of them. Such States have no power to tax them; they cannot interfere with the primary disposal of them, or with the regulations of Congress for securing the title to purchasers; it is, in fact, Congress alone that can enact laws to affect them. The interest which a citizen of an Atlantic State has in them, as a part of the property of the Union, is the same as the interest of a citizen residing in a State formed out of them. But hitherto appropriations of them for State purposes have only been made in favor of such States; and the citizen on the eastern side of the Alleghany may well complain that property, in which he has a common interest with his fellow-citizen on the western side, should be appropriated exclusively to the use of the latter. That this is the fact, in regard to that part of the public lands which have been assigned for the support of literary institutions, and the promotion of education, cannot be denied.

Your committee do not censure the enlightened policy which governed Congress in making liberal appropriations of land for the encouragement of learning in the West, nor do they wish to withdraw one acre of them from the purposes to which they have been devoted; but they think they are fully justified in saying, that impartial justice required that similar appropriations should have been extended to all the States alike. Suppose Congress should appropriate 200,000 acres of the public lands for the support of colleges and academies in New York; and Virginia, who gave up and ceded a great portion of those lands to the United States, on the express condition, that "they should be considered as a common fund for the use and benefit of all of them, according to their usual respective proportions in the general charge and expenditure," should apply for a similar grant, and her application should be refused, would she not have a right to complain of the partiality of such a measure, and to charge the Federal Government with a breach of good faith, and an infringement of the conditions on which the cession was made? It cannot be denied that she would. Congress have

already made a grant of 200,000 acres of land for the support of colleges and academies, not indeed in New York, but in Tennessee. Would not Virginia, if she now made an application for a like grant, and were refused, have the same reason to complain as if New York, instead of Tennessee, had been the favored State?

Your committee beg leave to illustrate, by another example, the equity of the principle which it is the object of this report to establish. Foreign commerce and the public lands are alike legitimate sources, from which the United States may and do derive revenue. Foreign commerce has fixed its seat in the Atlantic States. Suppose Congress should pass a law appropriating one 36th part of the revenue collected from foreign commerce, in the ports of Baltimore, New York, Boston, Norfolk, Charleston, and Savannah, to the support of common schools throughout the States in which they are situated; the other States, every person will admit, would have a right to complain of the partiality and injustice of such an act; and yet, in what respect would an act appropriating one 36th part of the revenue derived from foreign commerce to the use of schools in the six States in which it should be produced, be more partial or unjust than an act appropriating one 36th part of the public land in Ohio, Indiana, Illinois, Tennessee, Mississippi, and Alabama, the six States in which the public lands, on this side of the Mississippi, are chiefly situated, to their exclusive benefit in the maintenance of their schools?

Your committee are aware that it has been said that the appropriation of a part of the public lands to the purposes of education, for the benefit of the States formed out of them, has had the effect of raising the value of the residue, by inducing emigrants to settle upon them. Although, in the preambles of such of the acts on this subject as have preambles, the promotion of religion, morality, and knowledge, as necessary to good government and the happiness of mankind, have been assigned as the reason for passing them, and no mention has been made of the consequent increase in the value of the lands that would remain, as a motive for the appropriation, yet the knowledge that provision had been made for the education of children in the West, though other motives usually influence emigrants, might have had its weight in inducing some to leave their native homes. If such has been the effect, the value of the residue of the lands has no doubt been increased by it. This increase of value, however, has not been an exclusive benefit to the Atlantic States, but a benefit common to all the States, Eastern and Western, while the latter still enjoy exclusively the advantages derived from the appropriations of land for literary purposes. The incidental advantage of the increase in value of the public lands in consequence of emigration, if it is to be considered in the light of a compensation to the old States, must be shown to be an advantage exclusively enjoyed by them. That this, however, is not the case, is perfectly obvious; because the proceeds of the lands thus raised in value by emigration, when sold, go into the United States Treasury,

*Proclamation by the President.*

and are applied, like other revenues, to the general benefit; in other words, to national, and not to State purposes.

It is moreover most clear, that this increase of the value of lands in consequence of emigration produces a peculiar benefit to the inhabitants of the new States, in which the inhabitants of the other States, unless owners of land in the new, have no participation. The benefit consists in the increase of the value of their own private property.

On the other hand it is undoubtedly true, that emigration is injurious to the Atlantic States, and to them alone. While it has had the effect of raising the price of lands in the West, it has, in an equal ratio at least, and probably in a much greater, prevented the increase of the value of lands in the States which the emigrants have left. It is an indisputable principle in political economy, that the price of every object of purchase, whether land or personal property, depends upon the relation which supply bears to demand. The demand for land would have been the same, or very nearly so, for the same number of people as are contained within the present limits of the United States, if they had been confined within the limits of the Atlantic States. But the supply in that case would have been most materially different. It must have been so small, in proportion to the demand, as to occasion a great rise in the value of land in the Atlantic States; for it cannot be doubted that it is the inexhaustible supply of cheap and good land in the West which has kept down the price of land on the eastern side of the Alleghany. If the Atlantic States had been governed by an exclusive, local, and selfish policy, every impediment would have been thrown in the way of emigration, which has constantly and uniformly operated to prevent the growth of their numbers, wealth, and power; for which disadvantage the appreciation of their interest in the public lands, consequent upon emigration, can afford no adequate compensation. It appearing, then, perfectly clear to your committee, that emigration is exclusively advantageous to the new States, whose population, wealth, and power, are thereby increased at the expense of those States which the emigrants abandon, the inducement to emigration furnished by the appropriation of public lands for the purposes of education in the West, instead of affording a reason for confining such appropriations to that quarter of the Union, offers the most weighty considerations, of both justice and policy, in favor of extending them to the States which have not yet obtained them.

Your committee beg leave to present one further reflection to the consideration of the Senate, drawn from the effect produced by encouraging learning in the Western States alone, upon the relative moral power of the Atlantic and Mississippi States. They are far from wishing to make any objection to the augmentation of the intelligence and mental improvement of the people of the West. On the contrary, they sincerely desire the advancement of their brethren in that quarter of the Union, in every thing that can strengthen,

dignify, and embellish political communities.—But, while they entertain these sentiments, they cannot shut their eyes to the political preponderance which must ultimately be the inevitable result of the superior advantages of education there, and they must, therefore, ardently desire that the same advantages be extended to the people of the Atlantic States.

Your committee are persuaded that, from the views which they have thus presented, on the subject of appropriations of public lands for the purpose of education, the Senate will be satisfied that Maryland, and the other States which have not yet had the benefit of any such appropriations, are entitled to ask of the General Government to be placed on an equal footing with the States which have already received them. They believe that no one, convinced of the justice of such a measure, can question its expediency; nor can they entertain any apprehension that an application to Congress, supported by the combined influence of all the States which are interested, would fail of success. For the purpose, therefore, of drawing the attention of the National Legislature to this important subject, and of obtaining the co-operation of the other States, your committee beg leave to recommend the adoption of the following resolutions:

*Resolved by the General Assembly of Maryland,* That each of the United States has an equal right to participate in the benefit of the public lands, the common property of the Union.

*Resolved,* That the States in whose favor Congress have not made appropriations of land for the purposes of education, are entitled to such appropriations as will correspond, in a just proportion, with those heretofore made in favor of the other States.

*Resolved,* That his Excellency the Governor be requested to transmit copies of the foregoing report and resolutions to each of our Senators and Representatives in Congress, with a request that they will lay the same before their respective Houses, and use their endeavors to procure the passage of an act to carry into effect the just principles therein set forth.

*Resolved,* That his Excellency the Governor be also requested to transmit copies of the said report and resolutions to the Governors of the several States of the Union, with a request that they will communicate the same to the Legislatures thereof, respectively, and solicit their co-operation.

All which is respectfully submitted,

V. MAXCY, *Chairman.*

### A PROCLAMATION.

BY THE PRESIDENT OF THE UNITED STATES.

Whereas the Congress of the United States, by a joint resolution of the second day of March last, entitled "Resolution providing for the admission of the State of Missouri into the Union on a certain condition," did determine and declare—"That Missouri should be admitted into this Union on an equal footing with the original States, in all



*Proclamation by the President.*

respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the first Monday in November next, an authentic copy of said act; upon the receipt whereof, the President, by proclamation, shall announce the fact: whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."—And whereas, by a solemn public act of the Assembly of the said State of Missouri, passed on the twenty-sixth of June, in the present year, entitled "A solemn public act declaring the assent of this State to the fundamental condition contained in a resolution passed by the Congress of the United States, providing for the admission of the State of Missouri into the Union on a certain condition;" an authentic copy whereof has been com-

municated to me, it is solemnly and publicly enacted and declared, that that State has assented, and does assent, that the fourth clause of the twenty-sixth section of the third article of the constitution of said State "shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the United States shall be excluded from the enjoyment of any of the privileges and immunities to which such citizens are entitled under the Constitution of the United States."—Now, therefore, I, JAMES MONROE, President of the United States, in pursuance of the resolution of Congress aforesaid, have issued this my Proclamation, announcing the fact, that the said State of Missouri has assented to the fundamental condition required by the resolution of Congress aforesaid; whereupon the admission of the said State of Missouri into this Union is declared to be complete.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with [L. s.] my hand. Done at the City of Washington, the tenth day of August, 1821; and of the Independence of the said United States of America the forty-sixth.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,  
*Secretary of State.*

## Public Acts of Congress.

SEC. 2. *And be it further enacted*, That every writ, process, subpoena, or recognisance, returnable, according to law, or the tenor thereof, to either of the aforesaid terms, holden on the first Mondays in May and December, shall be returnable to the next succeeding term of said court, to be holden on the first Monday in January and July.—Approved, January 11, 1821.

An Act making a partial appropriation for the Military Service of the United States, for the year one thousand eight hundred and twenty-one.

*Be it enacted, &c.*, That the following sums be, and they are hereby, appropriated, on account of the military service for the year one thousand eight hundred and twenty-one, to wit:

For subsistence of the Army of the United States, one hundred and fifty thousand dollars.

For arrearages on the settlement of outstanding claims, twenty thousand dollars.

For the Quartermaster's department, one hundred and fifty thousand dollars.

SEC. 2. *And be it further enacted*, That the said sums be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, January 17, 1821.

An Act to extend the time for locating Virginia Military Land Warrants, and returning surveys thereon to the General Land Office.

*Be it enacted, &c.*, That the officers and soldiers of the Virginia line on continental establishment, their heirs or assigns, entitled to bounty lands within the tract of county reserved by the State of Virginia, between the Little Miami and Scioto rivers, shall be allowed a further time of two years, from the fourth day of January, one thousand eight hundred and twenty-one, to obtain warrants and complete their locations, and the further time of four years, from the fourth day of January, one thousand eight hundred and twenty-two, to return their surveys and warrants, or certified copies of warrants, to the General Land Office, to obtain patents.

SEC. 2. *And be it further enacted*, That the provisions of the act, entitled "An act authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants," passed the third day of March, one thousand eight hundred and seven, shall be revived and in force, with all its restrictions, except that the respective times allowed for making locations, and returning surveys thereon, shall be limited to the terms prescribed by the first section of this act, for the location and return of surveys on other warrants, and that the surveys shall be returned to the General Land Office: *Provided*, That no locations as aforesaid, in virtue of this or the preceding section of this act, shall be made on tracts of lands for which patents had previously been issued, or which had been previously surveyed; and any patent which may, nevertheless, be obtained for lands located contrary to the provisions of this act, shall be considered null and void.

Approved, February 9, 1821.

An Act to incorporate the Columbian College in the District of Columbia.

*Be it enacted, &c.*, That there be erected, and hereby is erected and established, in the District of Columbia, a college, for the sole and exclusive purpose of educating youth in the English, learned, and foreign languages, the liberal arts, sciences, and literature, the style and title of which shall be, and hereby is declared to be, "The Columbian College, in the District of Columbia."

SEC. 2. *And be it further enacted*, That the said college shall be under the management, direction, and government, of a number of trustees, not exceeding thirty-one, to be elected triennially, by the contributors to the said college, qualified to vote, in such manner, and under such limitations and restrictions, as may be provided by the ordinances of the college, on the first Monday in May; and that the first trustees of the said college shall consist of the following persons, viz: Obadiah B. Brown, Luther Rice, Enoch Reynolds, Josiah Meigs, Spencer H. Cone, Daniel Brown, Return J. Meigs, Joseph Gibson, Joseph Cone, Thomas Corcoran, Burgis Allison, Thomas Sewall, and Joseph Thaw. Which said trustees and their successors, shall forever hereafter be, and they are hereby declared to be, one body politic and corporate, with perpetual succession, in deed and in law, to all intents and purposes whatsoever, by the name, style, and title of "The Columbian College in the District of Columbia;" by which name and title they, the said trustees, and their successors, shall be competent and capable, at law and in equity, to take to themselves and their successors, for the use of the said college, any estate, in any messuage, lands, tenements, hereditaments, goods, chattels, moneys, and other effects, by gift, grant, bargain, sale, conveyance, assurance, will, devise, or bequest, of any person or persons whatsoever: *Provided*, The same do not exceed, in the whole the yearly value of twenty-five thousand dollars; and the same messuages, lands, tenements, hereditaments, and estate, real and personal, to grant, bargain, sell, convey, assure, demise, and to farm, let, and place out on interest, for the use of the said college, in such manner as to them, or at least nine of them, shall seem most beneficial to the institution, and to receive the rents, issues, and profits, income and interest, of the same, and to apply the same to the proper use and benefit of the said college, and by the same name to sue, commence, prosecute, and defend, implead, and be impleaded, in any courts of law and equity, and in all manner of suits and actions whatsoever, and generally, by and in the same name, to do and transact all and every the business touching or concerning the premises.

SEC. 3. *And be it further enacted*, That the said trustees shall cause to be made for their use one common seal, with such devices and inscriptions thereon as they shall think proper, under and by which all deeds, diplomas, certificates, and acts of the said college, shall pass and be authenticated; and the same seal, at their pleasure, to break, and devise a new one.

SEC. 4. *And be it further enacted*, That the said

trustees, or five of them at least, shall meet at the college, on College hill, in the said District of Columbia, on the first Monday in March next, for the purpose of concerting and agreeing to such business as, in consequence of this act, shall be proper to be laid before them at the commencement of the work they have undertaken, and shall have power to adjourn, from time to time, as they shall see cause, to any other times or places for the purpose of perfecting the same. That there shall be a stated meeting of the said trustees held twice in every year at least, at such place and time as the said trustees, or a quorum thereof, shall appoint, of which public notice shall be given, after the first meeting, at least twenty days before the time of such intended meeting, whenever the president, to be appointed by them, shall deem the business of the institution to require the same, and give due notice thereof, which he is hereby authorized to do; and if, at such stated or occasional meetings, five of the said trustees shall not be present, those of them who shall be present, shall have power to adjourn the meeting to any other day, as fully and effectually, to all intents and purposes, as if the whole number of trustees for the time being were present; but, if five or more of the said trustees shall meet at the said appointed times, or at any other time of adjournment, then such five of the said trustees shall be a board or quorum, and a majority of the votes of them shall be capable of doing and transacting all the business and concerns of the said college not otherwise provided for by this act; and particularly of making and enacting ordinances for the government of the said college; of electing and appointing the president, professors, and tutors, for the said college; of agreeing with them for their salaries and stipends, and removing them for misconduct, or breach of the laws of the institution; of appointing committees of their own body to carry into execution all and every the resolutions of the board; of appointing a president, treasurer, secretary, stewards, managers, and other necessary and customary officers, for taking care of the estate, and managing the concerns of the corporation; and, generally, a majority of voices of the board, or quorum of the said trustees, consisting of five trustees at least, at any semi-annual, occasional, or adjourned meeting, after notice given as aforesaid, shall determine all matters and things (although the same be not herein particularly mentioned) which shall occasionally arise, and be incidentally necessary to be determined and transacted by the said trustees: *Provided always*, That no ordinances shall be of force which shall be repugnant to this charter, or to the laws of the District of Columbia.

SEC. 5. *And be it further enacted*, That the head or chief master for the said college shall be called and styled "The President," and the masters thereof shall be called "Professors and Tutors," but neither president, professors, or tutors, while they remain such, shall ever be capable of the office of trustee.

SEC. 6. *And be it further enacted*, That the president, professors, and tutors, or a majority of them, shall be called and styled "The Faculty of the

College;" which faculty shall have the power of enforcing the rules and regulations adopted by the trustees for the government of the pupils by rewarding or censuring them, and, finally, by suspending such of them as, after repeated admonitions, shall continue disobedient and refractory, until a determination of a quorum of the trustees can be had; and of granting and confirming, by and with the approbation and consent of a board of the trustees, signified by their mandamus, such degrees in the liberal arts and sciences to such pupils of the institution, or others, who, by their proficiency in learning, or other meritorious distinction, they shall think entitled to them, as are usually granted and conferred in colleges; and to grant, to such graduates, diplomas or certificates, under their common seal, and signed by the faculty, to authenticate and perpetuate the memory of such graduation.

SEC. 7. *And be it further enacted*, That persons of every religious denomination shall be capable of being elected trustees; nor shall any person, either as president, professor, tutor, or pupil, be refused admittance into said college, or denied any of the privileges, immunities, or advantages thereof, for or on account of his sentiments in matters of religion.

SEC. 8. *And be it further enacted*, That no misnomer of the said corporation shall defeat or annul any gift, grant, devise, or bequest, to or from the said corporation: *Provided*, The intent of the parties shall sufficiently appear upon the face of the gift, grant, will, or other writing, whereby any estate or interest was intended to pass to or from the said corporation.

SEC. 9. *And be it further enacted*, That the constitution of the said college, herein and hereby declared and established, shall be, and remain, the inviolate constitution of the said college forever; and the same shall not be altered, or alterable, by any ordinance or law of the said trustees: *Provided*, That it may be lawful for the Congress of the United States to revoke and repeal this act, at any, and at all times whenever they shall think fit so to do.

SEC. 10. *And be it further enacted*, That it shall be the duty of the said board of trustees to keep a regular book or journal, in which shall be entered, under their direction, besides an account of all their ordinary acts and proceedings, all the by-laws, ordinances, rules, and regulations, which may be adopted by the said board, for their own government, and for the government of the institution; also, a schedule of all the property and effects, real, personal, or mixed, which shall or may be vested in the said trustees, for the use of the said college, by virtue of any gift, grant, bargain, sale, will, or otherwise, together with annual statements concerning the accounts and finances of the institution. That it shall, moreover, be the duty of the said trustees, to cause to be enrolled in the said book or journal the names of all the contributors to the institution qualified to vote for trustees, with their respective places of residence, and the said book or journal shall, at all times, be open to the inspection or examination of the Attorney General

*Public Acts of Congress.*

of the United States; and, when required by either House of Congress, it shall be the duty of the said trustees to furnish any information respecting their own conduct, the state of the institution, and of its finances, which shall or may be so required.

SEC. 11. *And be it further enacted*, That in case any vacancy or vacancies shall happen in the board of trustees aforesaid, by death, inability, resignation, or otherwise, at any time between the stated or triennial elections, that then it shall and may be lawful for the other trustees, or any five of them, to proceed, at any subsequent meeting after the happening of such vacancy or vacancies, to choose by ballot any suitable person or persons to fill the same.

SEC. 12. *And be it further enacted*, That the employment or application of the funds or income of the said corporation, or any part thereof, for any purpose or object other than those expressed and defined in the first section of this act, or the investment thereof in any other mode than is described and provided in the second section thereof, shall be deemed and taken to be a forfeiture of all the rights and immunities derived from this act, and the same shall thenceforth cease, and become null and void.

Approved, February 9, 1821.

An Act for the relief of the purchasers of public lands, prior to the first day of July, eighteen hundred and twenty.

*Be it enacted, &c.*, That, in all cases, where lands have been purchased from the United States, prior to the first day of July, eighteen hundred and twenty, it shall be lawful for any such person or persons, being the legal holder of any certificate, or certificates, of land, on or before the thirtieth day of September, eighteen hundred and twenty-one, to file, with the register of the land office where any tract of land has been purchased, a relinquishment, in writing, of any section, half section, quarter section, half quarter section, or legal subdivision of any fractional section of land so purchased, upon which the whole purchase money has not been paid, and all sums paid on account of the part relinquished shall be applied to the discharge of any instalments which may be, or shall hereafter become, due and payable upon such land, so purchased, as shall not have been relinquished, and shall be so applied and credited as to complete the payment on some one or more half quarter sections where the payments by transfer are sufficient for that purpose: *Provided*, That all divisions, and subdivisions, contemplated by this act, shall be made in conformity with the first section of an act making further provision for the sale of public lands, passed the twenty-fourth day of April, one thousand eight hundred and twenty: *And provided, also*, That the right of relinquishment hereby given shall, in no case, authorize the party relinquishing to claim any repayment from the United States: *And provided, also*, That where any purchaser has purchased, at the same time, two or more quarter sections, he shall not be permitted to relinquish less than a quarter section.

SEC. 2. *And be it further enacted*, That the interest which shall have accrued before the thirtieth day of September next, upon any debt to the United States, for public land, shall be, and the same is hereby, remitted and discharged.

SEC. 3. *And be it further enacted*, That the persons indebted to the United States, as aforesaid, shall be divided into three classes; the first class to include all such persons as shall have paid to the United States only one-fourth part of the original price of the land by them respectively purchased or held; the second class to include all such persons as shall have paid to the United States only one-half part of such original price; and the third class to include all such persons as shall have paid to the United States three-fourth parts of such original price; and the debts of the persons included in the first class shall be paid in eight equal annual instalments; the debts of the persons included in the second class shall be paid in six equal annual instalments; and the debts of the persons included in the third class shall be paid in four equal annual instalments; the first of which instalments in each of the classes aforesaid shall be paid in manner following, to wit: of the third class, on the thirtieth day of September next; of the second class, on the thirty-first day of December next; and of the first class, on the thirty-first day of March, one thousand eight hundred and twenty-two; and the whole of the debt aforesaid, shall bear an annual interest at the rate of six per cent.: *Provided always*, That the same shall be remitted upon each and every of the instalments aforesaid which shall be punctually paid when the same shall become payable as aforesaid.

SEC. 4. *And be it further enacted*, That, in all cases where complete payment of the whole sum due, or which may become due, for any tract of land purchased from the United States aforesaid, shall be made on or before the thirtieth day of September, one thousand eight hundred and twenty-two, a deduction, at the rate of thirty-seven and a half per centum, shall be allowed upon the sum remaining unpaid: *Provided*, That nothing herein contained shall authorize any discount upon payments made by a transfer of former payments under the provisions of the first section of this act.

SEC. 5. *And be it further enacted*, That each and every individual or company, that has laid off, on any lands by him or them purchased of the United States, any town, a part or the whole of the lots whereof have been sold, shall be entitled to the benefits of this act in relation to any half quarter, or quarter section of land, on which such town may be situated, and of all lands by him or them owned, contiguous to and adjoining said half quarter, quarter section, or section, on which said town is situated, upon condition only, that each and every person who has purchased of him or them a town lot, or part of a lot, or land in and adjoining the same, shall be entitled to a remission of all interest that has accrued, and a discount of twenty per centum on the amount unpaid, and to discharge their debt by bonds, with security, in equal annual instalments of four years from the thirtieth day of December next. Nor

shall the provisions of this act be construed to extend to any person or persons claiming title to land under the provisions of an act passed the third day of March, eighteen hundred and seventeen, entitled "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive."

SEC. 6. *And be it further enacted*, That, for failure to pay the several debts aforesaid, in manner aforesaid, and for the term of three months after the day appointed for the payment of the last instalment thereof, in each of the classes aforesaid, the land so purchased or held by the respective persons indebted to the United States, as aforesaid, shall, *ipso facto*, become forfeited, and revert to the United States.

SEC. 7. *And be it further enacted*, That no person shall be deemed to be included within, or entitled to, the benefits of any of the provisions of this act, who shall not, on or before the thirtieth day of September next, sign and file in the office of the register of the land office of the district where the land was purchased, or where the residue of the purchase money is payable, a declaration in writing, expressing his consent to the same, and shall pay to the register, for receiving, recording, and filing the same, fifty cents.

SEC. 8. *And be it further enacted*, That it shall be, and hereby is made, the duty of the several registers and receivers of the land offices of the United States, according to the forms and instructions which shall be given in that behalf by the Treasury Department, to assist in carrying this act into execution, to keep full and faithful accounts and records of all proceedings under the same; and, within the term of three months after the said thirtieth day of September next, to transmit to the said department a correct report of the quantity of land relinquished to the United States; the quantity on which full payment shall have been made; and the quantity on which a further credit shall have been given, distinguishing the amount of the debt on which further credit shall have been allowed; and the registers and receivers, respectively, shall be entitled to receive fifty cents from the party relinquishing, for each half quarter section, quarter section, half section, section, or legal subdivision of a fractional section, so relinquished.

SEC. 9. *And be it further enacted*, That no lands purchased from the United States, on or before the first day of July, eighteen hundred and twenty, which are not already forfeited, shall be considered as forfeited to the Government, for failing in completing the payment thereon, until the said thirtieth day of September next; and all the lands which shall be relinquished to the United States, as aforesaid, shall be deemed and held to be forfeited, and, with all other lands which may become forfeited under this act, shall be sold according to the provisions of the act entitled "An act making further provision for the sale of the public lands," passed the twenty-fourth day of April, eighteen hundred and twenty.

SEC. 10. *And be it further enacted*, That no land which shall be surrendered under the provisions

of this act, shall be offered for sale for the term of two years after the surrender thereof.

Approved, March 2, 1821.

An Act to reduce and fix the Military Establishment of the United States.

*Be it enacted, &c.*, That, from and after the first day of June next, the Military Peace Establishment of the United States shall be composed of four regiments of artillery and seven regiments of infantry, with such officers of engineers, of ordnance, and of the staff, as are hereinafter provided for.

SEC. 2. *And be it further enacted*, That each regiment of artillery shall consist of one colonel, one lieutenant colonel, one major, one sergeant major, one quartermaster sergeant, and nine companies, one of which shall be designated and equipped as light artillery; and that there shall be attached to each regiment of artillery one supernumerary captain to perform ordnance duty, and that each company shall consist of one captain, two first lieutenants, two second lieutenants, four sergeants, four corporals, three artificers, two musicians, and forty-two privates. That each regiment of infantry shall consist of one colonel, one lieutenant colonel, one major, one sergeant major, one quartermaster sergeant, two principal musicians, and ten companies, each of which shall consist of one captain, one first lieutenant, one second lieutenant, three sergeants, four corporals, two musicians, and forty-two privates; and that to each regiment of artillery and infantry there shall be one adjutant, who shall be taken from the subalterns of the line.

SEC. 3. *And be it further enacted*, That the corps of engineers (bombardiers excepted) and the topographical engineers, and their assistants, shall be retained in service as at present organized.

SEC. 4. *And be it further enacted*, That the ordnance department shall be merged in the artillery, and that the President of the United States be, and he is hereby, authorized to select from the regiments of artillery such officers as may be necessary to perform ordnance duties, who, while so detached, shall receive the pay and emoluments now received by ordnance officers, and shall be subject only to the orders of the War Department; and that the number of enlisted men in the ordnance department be reduced to fifty-six.

SEC. 5. *And be it further enacted*, That there shall be one major general, with two aids-de-camp, two brigadier generals, each with one aid-de-camp; and that the aids-de-camp be taken from the subalterns of the line, and, in addition to their other duties, shall perform the duties of assistant adjutant general.

SEC. 6. *And be it further enacted*, That there shall be one adjutant general, and two inspectors general, with the rank, pay, and emoluments, of colonels of cavalry.

SEC. 7. *And be it further enacted*, That there shall be one quartermaster general; that there shall be two quartermasters, with the rank, pay, and emoluments of majors of cavalry; and ten assistant quartermasters, who shall, in addition to their

pay in the line, receive a sum not less than ten dollars, nor more than twenty dollars per month, to be regulated by the Secretary of War.

SEC. 8. *And be it further enacted*, That there shall be one commissary general of subsistence; and that there shall be as many assistant commissaries as the service may require, not exceeding fifty, who shall be taken from the subalterns of the line, and shall, in addition to their pay in the line, receive a sum not less than ten, nor more than twenty dollars per month; and that the assistant quartermasters, and assistant commissaries of subsistence, shall be subject to duties in both departments, under the orders of the Secretary of War.

SEC. 9. *And be it further enacted*, That there shall be one paymaster general, with the present compensation, and fourteen paymasters, with the pay and emoluments of regimental paymasters, and that there shall be one commissary of purchases, and two military storekeepers, to be attached to the purchasing department.

SEC. 10. *And be it further enacted*, That the medical department shall consist of one surgeon general, eight surgeons, with the compensation of regimental surgeons, and forty-five assistant surgeons, with the compensation of post surgeons.

SEC. 11. *And be it further enacted*, That the officers, non-commissioned officers, artificers, musicians, and privates, retained by this act, except those specially provided for, shall have the same rank, pay, and emoluments, as are provided in like cases by existing laws; and that the force authorized and continued in service under this act shall be subject to the rules and articles of war.

SEC. 12. *And be it further enacted*, That the President of the United States cause to be arranged the officers, non-commissioned officers, artificers, musicians, and privates, of the several corps now in the service of the United States, in such manner as to form and complete out of the same the force authorized by this act, and cause the supernumerary officers, non-commissioned officers, artificers, musicians, and privates, to be discharged from the service of the United States.

SEC. 13. *And be it further enacted*, That there shall be allowed and paid to each commissioned officer, who shall be discharged from the service of the United States in pursuance of this act, three months pay, in addition to the pay and emoluments to which he may be entitled by law at the time of his discharge.

SEC. 14. *And be it further enacted*, That the system of "General Regulations for the Army," compiled by Major General Scott, shall be, and the same is hereby, approved and adopted for the government of the Army of the United States, and of the militia when in the service of the United States.

Approved, March 2, 1821.

An Act making appropriations for the support of Government, for the year one thousand eight hundred and twenty-one.

*Be it enacted, &c.*, That the following sums be, and the same are hereby, respectively appropriated

for the service of the year one thousand eight hundred and twenty-one, that is to say:

For compensation granted by law to the Senate and House of Representatives, their officers, and attendants, three hundred and fourteen thousand eight hundred and sixty-six dollars.

For the compensation of the Senators and Representative elected by Missouri, six thousand dollars.

For the expenses of fire wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, forty-nine thousand dollars.

For the expenses of the Library of Congress, including the Librarian's allowance for the year, one thousand nine hundred and fifty dollars.

For the purchase of books for the Library of Congress, comprehending the statutes and the reports of the decisions of the courts of law and chancery of the different States, with the latest maps of the several States and Territories of the United States, one thousand dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For compensation to the Secretary of State, six thousand dollars.

For compensation to the clerks in the Department of State, by the act of twentieth April, one thousand eight hundred and eighteen, fifteen thousand nine hundred dollars.

For compensation to the messengers in said department, including the messenger to the Patent office, nine hundred and sixty dollars.

For the contingent and incidental expenses of the Department of State, including expenses of distributing copies of the laws of the second session of the sixteenth Congress, twenty-two thousand seven hundred dollars.

For compensation to the Secretary of the Treasury, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Treasury, per act of twentieth April, one thousand eight hundred and eighteen, ten thousand four hundred dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks in the office of the First Comptroller, per act of twentieth April, one thousand eight hundred and eighteen, seventeen thousand eight hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Comptroller, three thousand dollars.

For compensation to the clerks in the office of the Second Comptroller, per act of twentieth April, one thousand eight hundred and eighteen, nine thousand seven hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of

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the First Auditor, per act of twentieth April, one thousand eight hundred and eighteen, fifteen thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Second Auditor, per act of twentieth April, one thousand eight hundred and eighteen, seventeen thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Third Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Third Auditor, per act of twentieth April, one thousand eight hundred and eighteen, twenty-eight thousand six hundred dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For compensation to the Fourth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Fourth Auditor, per act of twentieth April, one thousand eight hundred and eighteen, fifteen thousand and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Fifth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Fifth Auditor, per act of twentieth April, one thousand eight hundred and eighteen, ten thousand five hundred dollars.

For three clerks, to complete the duties of the Commissioner of the Revenue, transferred to the office of the Fifth Auditor, three thousand seven hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks in the office of the Treasurer, per act of twentieth April, one thousand eight hundred and eighteen, five thousand two hundred and fifty dollars.

For compensation to an additional clerk, as allowed by act of appropriation, of one thousand eight hundred and nineteen, and one thousand eight hundred and twenty; and also for an assistant to the chief clerk, one thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the General Land office, three thousand dollars.

For compensation to the clerks in the office of said Commissioner, per act of twentieth April, one thousand eight hundred and eighteen, twenty-two thousand five hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks in the office of

the Register, per act of twentieth April, one thousand eight hundred and eighteen, twenty-two thousand three hundred and fifty dollars.

For compensation to the messenger in said office, including the allowance for stamping ships' registers, five hundred dollars.

For compensation to the secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For allowance to the person employed in transmitting passports and sea-letters, for expense of translating foreign languages in the office of the Secretary of the Treasury, for stationery, fuel, printing, and all other contingent and incidental expenses in the Treasury Department, and the several offices therein, forty-eight thousand seven hundred and forty dollars.

For allowance to the superintendent and four watchmen, employed for the security of the State and Treasury buildings, one thousand nine hundred dollars.

For compensation to the Secretary of War, six thousand dollars.

For compensation to the clerks in the War Department, per act of twentieth April, one thousand eight hundred and eighteen, twenty-three thousand four hundred dollars.

For compensation to the messengers in said Department, seven hundred and ten dollars.

For expense of fuel; stationery, printing, and other contingent expenses, in said Department, five thousand dollars.

For maps, plans, books, and instruments, one thousand dollars.

For compensation to the Paymaster General, two thousand five hundred dollars.

For compensation to the clerks in the office of the Paymaster General, per act of twentieth April, one thousand eight hundred and eighteen, nine thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissary General of Purchases, three thousand dollars.

For compensation to the clerks in the office of said Commissary, two thousand eight hundred dollars.

For compensation to the messenger in said office, three hundred and sixty dollars.

For compensation to the clerks in the office of the Adjutant and Inspector General, per act of twentieth April, one thousand eight hundred and eighteen, two thousand one hundred and fifty dollars.

For compensation to the clerks in the office of the Ordnance, per act of twentieth April, one thousand eight hundred and eighteen, two thousand nine hundred and fifty dollars.

For compensation to the clerks in the office of the Commissary General of Subsistence, two thousand one hundred and fifty dollars.

For compensation to the clerks in the Engineer office, two thousand one hundred and fifty dollars.

For compensation to the clerks in the Surgeon General's office, one thousand one hundred and fifty dollars.

For the contingent expenses of the said office, five hundred dollars.

For compensation to the Secretary of the Navy, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Navy, per act of twentieth April, one thousand eight hundred and eighteen, eight thousand two hundred dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For the contingent expenses of said office, two thousand dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

For compensation to the secretary of the Commissioners of the Navy Board, two thousand dollars.

For compensation to the clerks in the office of the Commissioners of the Navy Board, per act of twentieth April, one thousand eight hundred and eighteen, three thousand five hundred and fifty dollars.

For compensation to three clerks and a draughtsman, as allowed by acts of appropriation for one thousand eight hundred and nineteen, and one thousand eight hundred and twenty, in the office of said Commissioners, four thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For the contingent expenses of said office, two thousand dollars.

For allowance to the superintendent and four watchmen, for the security of the War and Navy buildings, and for the repairs of engine, hose, and buckets, one thousand nine hundred dollars.

For compensation to the Postmaster General, four thousand dollars.

For compensation to two Assistant Postmasters General, five thousand dollars.

For compensation to the clerks in the General Post Office, per act of twentieth April, one thousand eight hundred and eighteen, twenty-two thousand seven hundred dollars.

For compensation to the messengers in said office, six hundred and sixty dollars.

For contingent expenses of said office, four thousand dollars.

For compensation of the Surveyor General, two thousand dollars.

For compensation to the clerks in the office of the Surveyor General, two thousand one hundred dollars.

For compensation to the surveyor south of Tennessee, two thousand dollars.

For compensation to the clerks in the office of said surveyor, one thousand seven hundred dollars.

For compensation to the surveyor in Illinois, Missouri, and Arkansas, two thousand dollars.

For compensation to the clerks in the office of said surveyor, two thousand dollars.

For compensation to the surveyor in Alabama, two thousand dollars.

For compensation to the clerks in the office of the surveyor in Alabama, one thousand five hundred dollars.

For compensation to the Commissioner of the

Public Buildings, at Washington City, two thousand dollars.

For compensation to the officers and clerks in the Mint, nine thousand six hundred dollars.

For wages of persons employed in the different operations of the Mint, nine thousand and fifty dollars.

For incidental and contingent expenses and repairs, cost of machinery, and for allowance of wastage, in the gold and silver coinage of the Mint, eight thousand one hundred dollars.

For compensation to the Governor, Judges, and Secretary, of the Arkansas Territory, six thousand six hundred dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Chief Justice, the Associate Judges, and District Judges of the United States, including the Chief Justice and Associate Judges of the District of Columbia, seventy-eight thousand two hundred dollars.

For compensation to the Attorney General of the United States, three thousand five hundred dollars.

For compensation to the clerk in the office of the Attorney General, per act of twentieth April, one thousand eight hundred and eighteen, eight hundred dollars.

For the contingent expenses of said office, including compensation to the messenger, five hundred dollars.

For compensation to the reporter of the decisions of the Supreme Court, one thousand dollars.

For compensation to sundry district attorneys and marshals, as granted by law, including those in the several Territories, eight thousand nine hundred and fifty dollars.

For the payment of sundry pensions granted by the late and present governments, one thousand five hundred and ninety dollars.

For making good a deficiency in the fund for the relief and protection of sick and disabled seamen, fifty thousand dollars.

For the support of lighthouses, and other establishments for the protection of navigation, one hundred and two thousand three hundred and forty-one dollars and twenty-eight cents.

For surveying the public lands of the United States, one hundred and fifty thousand dollars.

For additional compensation allowed by the act of the twentieth April, one thousand eight hundred and eighteen, to the clerks in the office of the Superintendent General of Indian trade, four hundred and fifty dollars.

For bringing on the votes of President and Vice President, three thousand one hundred and ninety-five dollars and fifty cents.

For expenses of ships' registers, three thousand seven hundred and fifty dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided



for, as shall be admitted in due course of settlement at the Treasury, six thousand dollars.

For the salaries of the Ministers of the United States at London, Paris, St. Petersburg, and Madrid, with the salaries of their several Secretaries of Legation, and the salaries of the *Chargé d'Affaires* at the Hague, Rio Janeiro, and at Stockholm, fifty-seven thousand five hundred dollars.

For an outfit to a Minister at Paris, nine thousand dollars.

For the contingent expenses of those missions, ten thousand dollars.

For the contingent expenses of foreign intercourse, thirty thousand dollars.

For the expenses of intercourse with the Barbary Powers, forty-two thousand dollars.

For salaries of the agents for claims on account of spoiliations and for seamen, at London and Paris, four thousand dollars.

For the relief and protection of American seamen in foreign countries, forty thousand dollars.

For opening, under the direction of the Secretary of War, within the Indian country, a road from a point at or near Turner Brashear's Stand, on the old Natchez road, to a point at or near Columbus, on the military road, the sum of five thousand dollars, which, by an act of the twenty-seventh of March, one thousand eight hundred and eighteen, was appropriated for keeping in repair said old road from Natchez to Columbia, in Tennessee, and which remains unexpended.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1821.

An Act making appropriations for the Military Service of the United States for the year one thousand eight hundred and twenty-one.

*Be it enacted, &c.*, That the following sums be, and the same are hereby, respectively, appropriated for the military service of the United States for the year one thousand eight hundred and twenty-one, to wit:

For the pay of the army and subsistence of the officers, nine hundred and fifty-four thousand five hundred and fifty-five dollars eighty-six cents, in addition to an unexpended balance of the year one thousand eight hundred and twenty, of one hundred and eighty thousand eight hundred and eighty dollars and seventy-eight cents.

For three months gratuitous pay for disbanded officers and soldiers, including travelling allowances for the same, sixty thousand dollars.

For subsistence, one hundred and four thousand six hundred and fifty-four dollars and sixty-seven cents, in addition to the sum of one hundred and fifty thousand dollars already appropriated.

For forage for officers, forty-one thousand five hundred and forty-one dollars.

For clothing, two hundred and seventy-six thousand five hundred and sixty-five dollars and twenty-five cents, in addition to an unexpended

balance of thirteen thousand nine hundred and three dollars and seventy-two cents.

For the Medical and Hospital department, twenty-four thousand five hundred and five dollars, in addition to an unexpended balance of nine thousand eight hundred and eighty-one dollars and sixty-five cents.

For the Quartermaster General's department, two hundred and two thousand eight hundred and sixty-eight dollars, in addition to the sum of one hundred and fifty thousand dollars already appropriated, to wit:

For regular supplies, transportation, rents, and repairs, postage and courts martial, and contingencies of the department, and pay of soldiers employed in the erection and repairs of barracks, surveys, roads, and other labor, three hundred and seventeen thousand eight hundred and sixty-eight dollars.

To complete the barracks at Baton Rouge, twenty thousand dollars; and for the transportation of ordnance, fifteen thousand dollars.

For arrearages in the Quartermaster General's department, twenty thousand dollars.

For the Military Academy, seventeen thousand and thirty-six dollars and twenty-two cents.

For fortifications, two hundred and two thousand dollars, in addition to an unexpended balance of one hundred thousand dollars, to be applied to the following fortifications, to wit:

Fort Delaware, fifty-five thousand dollars, to complete the same.

Fort Washington, twenty-two thousand dollars.

Fort Monroe, sixty-five thousand dollars.

Fort Calhoun, fifty thousand dollars.

Rigolets, sixty thousand dollars.

Mobile Point, thirty thousand dollars.

Repairs and contingencies, twenty thousand dollars.

For the contingencies of the army, forty thousand dollars.

For the national armories, three hundred and forty thousand dollars, in addition to an unexpended balance of twenty thousand dollars.

For the current expenses of the ordnance service, an unexpended balance of twenty-three thousand six hundred and sixty-three dollars and seven cents.

For the fulfilment of existing contracts for cannon, shot, and shells, and for the purchase of one thousand sword belts, and of timber for gun carriages, fifty-three thousand two hundred and fifty dollars.

For the annual allowance to the invalid pensioners of the United States, two hundred and thirteen thousand three hundred and twenty-four dollars, in addition to an unexpended balance of one hundred and one thousand six hundred and seventy-six dollars and seventy-five cents.

For the half-pay pensions of widows and orphans, thirty thousand dollars.

For arrearages, prior to the first of January, eighteen hundred and seventeen, fifty thousand dollars, in addition to a former appropriation of twenty thousand dollars.

For arrearages in the Indian Department, one hundred and thirty thousand two hundred and five dollars and forty-four cents.

For the current expenses of the Indian Department, one hundred thousand dollars.

For the annual allowance to the Revolutionary pensioners of the United States, one million two hundred thousand dollars, being part of the unexpended balance of a former appropriation.

For carrying into effect the treaty concluded with the Creek nation, on the eighth day of January, one thousand eight hundred and twenty, and ratified by and with the advice and consent of the Senate, on the twenty-fourth of February, one thousand eight hundred and twenty-one, forty-eight thousand five hundred dollars.

For carrying into effect the treaty concluded with the Choctaw nation of Indians, on the eleventh of October, one thousand eight hundred and twenty, sixty-five thousand dollars; and for payment of one year's annuity to Mushulatubba, a Choctaw chief, one hundred and fifty dollars.

For completing the road in the State of Georgia, through the Creek nation, under the acts of the twenty-seventh of April, one thousand eight hundred and sixteen, twenty-seventh of March, one thousand eight hundred and eighteen, and fourteenth of April, one thousand eight hundred and twenty, one thousand dollars.

For discharging arrearages incurred in building the arsenal at Augusta, in Georgia, forty thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved, March 3, 1821.

An Act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and twenty-one.

*Be it enacted, &c.*, That, for defraying the expenses of the Navy, for the year one thousand eight hundred and twenty-one, the following sums be, and the same are hereby, respectively appropriated:

For the pay and subsistence of the officers, and pay of the seamen, nine hundred and eighty-three thousand three hundred and twenty-five dollars and twenty-five cents.

For provisions, three hundred and thirty-seven thousand eight hundred and thirty-one dollars.

For medicines, hospital stores, and all expenses on account of the sick, thirty-two thousand dollars.

For repairs of vessels, three hundred and seventy-five thousand dollars.

For improvement of navy yards, docks, and wharves, pay of superintendents, storekeepers, clerks, and laborers, twenty-five thousand dollars.

For ordnance and ordnance stores, twenty-five thousand dollars.

For contingent expenses, two hundred thousand dollars.

For pay and subsistence of the marine corps,

one hundred and sixty-nine thousand three hundred and ninety-three dollars.

For clothing the same, thirty thousand six hundred and eighty-six dollars, and thirty-one cents.

For fuel for the same, six thousand eight hundred and fifty-seven dollars and fifty cents.

For contingent expenses of the same, fourteen thousand dollars.

For completing the equipment of the vessels constructed in pursuance of the act authorizing the building of a certain number of small vessels of war, ten thousand dollars.

For the purpose of enabling the Secretary of the Navy to remove obstructions placed in the river Thames, in Connecticut, by the commander of the American ships during the late war, one hundred and fifty dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 3, 1821.

An Act to authorize the President of the United States to borrow a sum not exceeding five millions of dollars.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, empowered to borrow, on the credit of the United States, a sum not exceeding five millions of dollars, at a rate of interest, payable quarter-yearly, not exceeding five per centum per annum, and reimbursable at the will of the Government, at any time after the first day of January, one thousand eight hundred and thirty-five; to be applied, in addition to the moneys now in the Treasury, or which may be received therein from other sources, during the present year, to defray any of the public expenses which are, or may be, authorized by law. The stock thereby created shall be transferable in the same manner as is provided by law for the transfer of the public debt.

SEC. 2. *And be it further enacted*, That it shall be lawful for the Bank of the United States to lend the said sum, or any part thereof; and it is hereby further declared, that it shall be deemed a good execution of the said power to borrow, for the Secretary of the Treasury, with the approbation of the President of the United States, to cause to be constituted certificates of stock, signed by the Register of the Treasury, or by a Commissioner of Loans, for the sum to be borrowed, or for any part thereof, bearing an interest of five per centum per annum, transferable and reimbursable as aforesaid, and to cause the said certificates of stock to be sold, provided that no stock be sold under par.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, with the approbation of the President of the United States, to employ an agent or agents for the purpose of obtaining subscriptions to the loan authorized by this act, or of selling any part of the stock to be created by virtue thereof. A commission of not exceeding one-eighth of one

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per centum on the amount thus sold, or for which subscriptions shall be obtained, may, by the Secretary of the Treasury, be allowed to such agent or agents; and a sum, not exceeding four thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated, is hereby appropriated for that object, and subscription certificates, and certificates of stock, and other expenses incident to the due execution of this act.

SEC. 4. *And be it further enacted*, That so much of the funds constituting the annual appropriation of ten millions of dollars for the payment of the principal and interest of the public debt of the United States, as may be sufficient for that purpose, after satisfying the sums necessary for the payment of the interest, and of such part of the principal, of the said debt, as the United States are now pledged annually to pay and reimburse, is hereby pledged and appropriated for the payment of the interest, and for the reimbursement of the principal, of the stock which may be created by virtue of this act. It shall, accordingly, be the duty of the Commissioners of the Sinking Fund to cause to be applied, and paid out of the said fund, yearly, such sum and sums as may annually be necessary to discharge the interest accruing on the said stock, and to reimburse the principal, as the same may become due, and may be discharged in conformity with the terms of the loan. And they are further authorized to apply, from time to time, such sum or sums towards discharging, by purchase, and at a price not above par, the principal of the said stock, or any part thereof; and the faith of the United States is hereby pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds hereby appropriated for paying the said interest and principal sums, or any of them, in manner aforesaid.—Approved, March 3, 1821.

An Act for carrying into execution the Treaty between the United States and Spain, concluded at Washington on the twenty-second day of February, one thousand eight hundred and nineteen.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to take possession of, and occupy, the territories of East and West Florida, and the appendages and appurtenances thereof; and to remove and transport the officers and soldiers of the King of Spain, being there, to the Havana, agreeably to the stipulations of the treaty between the United States and Spain, concluded at Washington on the twenty-second day of February, in the year one thousand eight hundred and nineteen, providing for the cession of said territories to the United States; and he may, for these purposes, and in order to maintain in said territories the authority of the United States, employ any part of the Army and Navy of the United States, and the militia of any State or Territory, which he may deem necessary.

SEC. 2. *And be it further enacted*, That, until the end of the first session of the next Congress, unless provision for the temporary government of said territories be sooner made by Congress, all the

military, civil, and judicial powers exercised by the officers of the existing government of the same territories, shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the fifteenth article of the said treaty, in favor of Spanish vessels and their cargoes, and the laws relating to the importation of persons of color shall be extended to the said territories. And the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and, during the recess of Congress, to appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to appoint, during the recess of the Senate, a Commissioner and Surveyor, whose commissions shall expire at the end of the next session of Congress, to meet the Commissioner and Surveyor who may be appointed on the part of Spain, for the purposes stipulated in the fourth article of said treaty; and that the President be, and he is hereby, further authorized to take all other measures which he shall judge proper, for carrying into effect the stipulations of the said fourth article.

SEC. 4. *And be it further enacted*, That a board of three commissioners shall be appointed, conformably to the stipulations of the eleventh article of the said treaty; and the President of the United States is hereby authorized to take any measures which he may deem expedient for organizing the said board of commissioners, and, for this purpose, may appoint a secretary well versed in the French and Spanish languages, and a clerk; which appointments, if made during the recess of the Senate, shall, at the next meeting of that body, be subject to nomination for their advice and consent.

SEC. 5. *And be it further enacted*, That the compensation of the respective officers, for whose appointment provision is made by this act, shall not exceed the following sums:

The commissioner to be appointed conformably to the fourth article, at the rate, by the year, of three thousand dollars.

To the surveyor, two thousand dollars.

To each of the three commissioners to be appointed conformably to the eleventh article of the treaty, three thousand dollars.

To the secretary of the board, two thousand dollars.

To one clerk, one thousand five hundred dollars.

SEC. 6. *And be it further enacted*, That, for carrying this act into execution, the sum of one hundred thousand dollars be, and hereby is, appropriated, to be taken from any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1821.

An Act to establish the District of Pearl River.

*Be it enacted, &c.,* That, from and after the first day of July next, all the bays, waters, and shores, on Lake Borgne and the Gulf of Mexico, and all the rivers emptying into the same, within the limits of the State of Mississippi, shall be a collection district, to be called the district of Pearl river; of which a port near the mouth of Pearl river, at such place as the President of the United States shall designate, shall be the port of entry; and a collector for the district shall be appointed, to reside at such place as the President shall direct, at or near the said port, who shall be entitled to receive, in addition to the fees and other emoluments established by law, the annual salary of two hundred and fifty dollars.

Approved, March 2, 1821.

An Act confirming the location of the seat of government of the State of Illinois, and for other purposes.

*Be it enacted, &c.,* That the four sections of land, including the section number sixteen, in township number six north, range number one east, of the third principal meridian, heretofore selected by commissioners appointed for that purpose, for the seat of government of the State of Illinois, be, and the same are hereby declared to be, confirmed to, and vested in, the said State, for the purpose aforesaid.

*SEC. 2. And be it further enacted,* That the Governor of said State be, and he is hereby, authorized to select any unappropriated section in said township, for the use of the inhabitants thereof, which shall be in lieu of the said sixteenth section.

Approved, March 2, 1821.

An Act further to regulate the entry of merchandise imported into the United States from any adjacent territory.

*Be it enacted, &c.,* That it shall be the duty of the master of any vessel, except registered vessels, and of every person having charge of any boat, canoe, or raft, and of the conductor or driver of any carriage or sleigh, and of every other person coming from any foreign territory adjacent to the United States, into the United States, with merchandise subject to duty, to deliver, immediately on his or her arrival within the United States, a manifest of the cargo or loading of such vessel, boat, canoe, raft, carriage, or sleigh, or of the merchandise so brought from such foreign territory, at the office of any collector or deputy collector which shall be nearest to the boundary line, or nearest to the road or waters by which such merchandise is brought; and every such manifest shall be verified by the oath of such person delivering the same; which oath shall be taken before such collector, or deputy collector; and such oath shall state that such manifest contains a full, just, and true account, of the kinds, quantities, and values, of all the merchandise so brought from such foreign territory; and if the master, or other person having charge of such vessel, boat, canoe, or raft, or the conductor or driver of such carriage or

sleigh, or other person bringing merchandise as aforesaid, shall neglect or refuse to deliver the manifest herein required, or pass by or avoid such office, the merchandise subject to duty, and so imported, shall be forfeited to the United States, together with the vessel, boat, canoe, or raft, the tackle, apparel, and furniture of the same, or the carriage or sleigh, and harness and cattle drawing the same, or the horses, with their saddles and bridles, as the case may be; and such master, conductor, or other importer, shall be subjected to pay a penalty of four hundred dollars.

*SEC. 2. And be it further enacted,* That any deputy collector, stationed in any district of the customs contiguous to a foreign territory, to whom a manifest of merchandise, subject to duty, shall be delivered as aforesaid, is hereby authorized to require of the importer of such merchandise the payment of the duties thereon, or good and ample security, either by bond, with one or more sufficient sureties, for the payment thereof, or by the deposit of a portion of such merchandise, equal, at least, to double the amount of the duties on the whole importation; which bond shall be cancelled, or the merchandise so deposited shall be delivered to the owner, on the producing to the deputy collector a certificate of the collector of the district, that the duties have been duly paid.

*SEC. 3. And be it further enacted,* That all penalties and forfeitures incurred by force of this act, shall be sued for, recovered, distributed, and accounted for, in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted in the manner prescribed by the act, entitled "An act to provide for the mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed on the third day of March, one thousand seven hundred and ninety-seven.

Approved, March 2, 1821.

An Act establishing the salaries of the Commissioners and Agents appointed under the Treaty of Ghent.

*Be it enacted, &c.,* That, from and after the first day of January, one thousand eight hundred and twenty-one, each commissioner now appointed, or who may be appointed agreeably to the provisions of the Treaty of Ghent, shall be entitled to receive at the rate of twenty-five hundred dollars per annum; and each agent appointed, or who may be appointed, as aforesaid, shall be entitled to receive at the rate of twenty-five hundred dollars per annum; which said sums, so allowed to said officers, respectively, shall be a full compensation for services, and all the personal expenses incurred while in the performance of the duties of their respective offices: *Provided,* That the compensation by this section allowed, shall not be continued longer than two years from the said first day of January, one thousand eight hundred and twenty-one.

*SEC. 2. And be it further enacted,* That each

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commissioner and agent shall not be entitled to receive, for services performed in their respective offices, before the said first day of January, one thousand eight hundred and twenty-one, any greater sum than the rate of four thousand four hundred and forty-four dollars per annum, which shall be considered a full compensation for services, and all personal expenses, incurred while in the discharge of their respective duties.

SEC. 3. *And be it further enacted,* That the sum of twenty-five thousand dollars be, and the same is hereby, appropriated for the payment of the salaries of the said commissioners and agents, and for the expenses under the several commissions under the Treaty of Ghent, for the present year.

Approved, March 3, 1821.

An Act to authorize the Collectors of Customs to pay debentures issued on the exportation of loaf sugar, and spirits distilled from molasses.

*Be it enacted, &c.,* That all debentures which have been, or may hereafter be, issued upon the exportation of spirits distilled from molasses, or sugar refined within the United States, shall be payable within thirty days after the passing of this act, or thirty days after the date of their issue, as the case may be, and shall be discharged by the collector of the customs, by whom they may have been, or shall be, issued, out of the product of the duties upon imports and tonnage; any thing in any act or acts of Congress to the contrary notwithstanding.

Approved, March 3, 1821.

An Act making appropriations for the Public Buildings.

*Be it enacted, &c.,* That, for continuing the work on the centre building of the Capitol, and other improvements on the public buildings, the following sums of money be, and hereby are, appropriated:

For continuing the work on the centre building, the sum of eighty thousand dollars.

For covering the roof of the President's house with copper, seven thousand eight hundred and forty-five dollars.

For graduating and improving the ground around the Capitol, two thousand dollars.

For improvements in the Senate Chamber, and in the Hall of the House of Representatives, and in the Library, seven hundred dollars.

SEC. 2. *And be it further enacted,* That the unexpended balances of appropriations to other public buildings, are hereby appropriated to the centre building.

SEC. 3. *And be it further enacted,* That the said several sums of money be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 3, 1821.

An Act extending the time for issuing and locating military land warrants to officers and soldiers of the Revolutionary Army.

*Be it enacted, &c.,* That the time limited, by the

second section of the act, approved on the twenty-fourth day of February, one thousand eight hundred and nineteen, for issuing military land warrants to the officers and soldiers of the Revolutionary army, shall be extended to the fourth day of March, one thousand eight hundred and twenty-three; and the time for locating the unlocated warrants shall be extended to the first day of October thereafter.

Approved, March 2, 1821.

An Act to extend the time for unloading vessels arriving from foreign ports, in certain cases.

*Be it enacted, &c.,* That, when the capacity of any vessel arriving with a cargo from a foreign port shall exceed three hundred tons, the term for unloading such vessel shall hereafter be twenty days from the report of arrival, Sundays excepted.

Approved, March 3, 1821.

An Act to continue in force an act, entitled "An act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain," passed on the twenty-ninth day of April, one thousand eight hundred and sixteen, so far as the same relates to the crowns and five-franc pieces of France.

*Be it enacted, &c.,* That so much of the act, entitled "An act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain," passed on the twenty-ninth day of April, eighteen hundred and sixteen, as relates to the crowns and five-franc pieces of France, shall be, and the same hereby is, continued in force for the further term of two years, from and after the twenty-ninth day of April next.

Approved, March 3, 1821.

An Act to extend the charters of certain Banks in the District of Columbia.

*Be it enacted, &c.,* That the acts incorporating the several banks in the District of Columbia, herein named, that is to say: the Bank of Alexandria, and the Farmers' Bank of Alexandria, in the town of Alexandria; the Bank of Washington, the Bank of the Metropolis, and the Patriotic Bank of Washington, in the City of Washington; the Union Bank of Georgetown, the Farmers and Mechanics' Bank of Georgetown, and the Bank of Columbia, in the town of Georgetown, be, and the same are hereby, extended and limited to the third day of March, which shall be in the year of our Lord one thousand eight hundred and thirty-six, under, and subject to, such limitations, modifications, and conditions, as are hereinafter enacted.

SEC. 2. *And be it further enacted,* That, if any one of the banks herein named shall, at any time, fail, or refuse to pay on demand, any bill, note, or obligation, issued by such bank, in lawful currency of the United States, when required, or shall neglect or refuse to pay on demand in like currency, if required, any moneys received by such bank on deposit, to the person or persons entitled to

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receive the same; then, and in such case, the holder of any such note, bill, or obligation, or the person or persons demanding such deposit as aforesaid, shall respectively be entitled to receive and recover interest on the same, at the rate of twelve per centum per annum, from the time of the demand until the same be fully paid and satisfied. *And further*, It shall be lawful for Congress, forthwith, to revoke the charter of such bank, and to provide for liquidating and settling the accounts and affairs thereof, in such manner as to their judgment may seem expedient.

SEC. 3. *And be it further enacted*, That any president, director, cashier, teller, clerk, or other officer, or servant, of any of the said banks, or of the Bank of Potomac, hereinafter named, who shall withhold, withdraw, conceal, or embezzle, or connive at the withholding, withdrawal, concealment, or embezzlement, of the money or other property of the bank whereof he is an officer or servant, with intent to defraud the said bank, shall be subject to prosecution therefor, in the name of the United States, by indictment, on presentment or information, in the circuit court of the county wherein such offence shall have been committed, and, on conviction thereof, shall be adjudged a felon, and suffer an imprisonment of not less than one year, nor more than ten years, and forfeit and pay a sum not less than one thousand, nor more than twenty thousand, dollars; one moiety whereof shall go to the United States, and the other to the informer.

SEC. 4. *And be it further enacted*, That, unless the president and directors, for the time being, of each of the banks respectively, whose charters are hereby extended, shall, on behalf of their stockholders, and in virtue of an authority from them, or a majority in interest and number of them, file their declaration, in writing, in the office of the Secretary of the Treasury, within six months from the passage of this act, assenting to and accepting the extension of charter hereby granted, under the terms, conditions, and limitations, contained in this act, such bank shall forfeit all title to such extension of charter.

SEC. 5. *And be it further enacted*, That every stockholder of the Bank of Alexandria, of the Farmers' Bank of Alexandria, and of the Bank of Washington, (being a citizen of the United States, and not otherwise,) shall be entitled to vote by himself, his agent, or proxy, appointed under his hand and seal, at all elections, in virtue of this act, and shall have as many votes as he has shares, as far as thirty shares, and not more than one vote for every five shares thereafter.

SEC. 6. *And be it further enacted*, That a meeting of the stockholders of the Bank of Alexandria, in the town of Alexandria, shall be held on the third Monday of January in every year, during the continuance of this act; previous notice whereof shall be published in some newspaper printed in Alexandria or the City of Washington, for the space of four weeks successively; and the stockholders assembled in consequence of such notice shall choose by ballot from among themselves, by a majority of votes of such as shall be present, or

by proxy, ten directors, being citizens of the United States, for the term of one year thereafter, and on the same day annually, for and during the continuance of this act, a like election shall be made; and in case of death, resignation, refusal, or disqualification, of any director, the remaining directors, at their next meeting, or as soon as convenient thereafter, shall elect, by ballot, another person, qualified as aforesaid, in his place, for the residue of the year. The directors, or any seven of them, shall, at their next meeting after every general election, elect, by a majority of members present, by ballot, from among themselves, a president, who shall retain all the powers and privileges of a director; and in case of refusal, death, resignation, or disqualification, of the president, the directors shall meet as soon as conveniently can be thereafter, and, after filling the vacancy in the number of directors required by this act, elect another person for president in manner before directed.

SEC. 7. *And be it further enacted*, That it shall not be lawful for any of the said banks, after the first day of January next, to make, issue, or reissue, any bill, note, or obligation, payable to bearer or order, of a denomination under five dollars.

SEC. 8. *And be it further enacted*, That the fourteenth section of the act incorporating the Bank of Columbia aforesaid, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, be, and the same is hereby, repealed and annulled: *Provided*, That the said fourteenth section shall remain in full force and effect in relation to all debts contracted with the said bank previous to the passing of this act.

SEC. 9. *And be it further enacted*, That it shall be lawful for the Central Bank of Georgetown and Washington to proceed, forthwith, to liquidate and close all the concerns of the corporation, and, after paying and satisfying the debts, contracts, and obligations, of the corporation, to divide the capital and profits which may remain among the stockholders, in proportion to their respective interests; and for this purpose, and for no other intent or purpose whatever, all the necessary powers, as fully as they are now enjoyed by the said corporation, shall be, and the same are hereby, continued to the said corporation, for the term of five years from the first day of January next, and no longer.

SEC. 10. *And be it further enacted*, That it shall and may be lawful for the stockholders of the Central Bank of Georgetown and Washington aforesaid, at their next annual meeting for the election of directors, to reduce the board of directors for the said Central Bank, to any number not less than six.

SEC. 11. *And be it further enacted*, That the corporation of the Bank of Potomac be, and the same is hereby, continued and extended to the third day of March, in the year of our Lord one thousand eight hundred and thirty-six, during which time it shall hold, and be possessed of all the rights, privileges, and immunities, now secured to it by an act, passed on the sixteenth day of February, one thousand eight hundred and eleven, entitled

"An act to incorporate the Bank of Potomac," and shall be subject to all the restraints and limitations expressed in the said act, except so far as the same shall be altered by any provisions hereinafter contained.

SEC. 12. *And be it further enacted*, That an election for directors of the Bank of Potomac shall be held in the town of Alexandria, on the first Monday in November in each year, of which notice shall be given in one or more newspapers published in said town, for four weeks at least before the day of election; and the stockholders shall choose, by ballot, to be given in person or by proxy, by a majority of votes, from amongst the stockholders, thirteen directors, for the term of one year thereafter, and, on resignation, disqualification, or removal, of any director out of the county of Alexandria, or out of the county of Fairfax, in Virginia, the other directors, at their next meeting thereafter, may elect, by ballot, another person, qualified as aforesaid, in his place, for the residue of the year. The directors of said bank shall, at the first meeting after every general election, elect, by ballot, from among their own number, by a majority of their whole number, a president; and in case of his death, resignation, or removal out of the county of Alexandria, or out of the county of Fairfax, or of his refusal to accept his office, the directors shall meet, as soon as conveniently can be thereafter, and elect another person as president, in the manner before described.

SEC. 13. *And be it further enacted*, That every stockholder of the Bank of Potomac, being a citizen of the United States, shall be entitled to vote at all elections to be holden by the stockholders of said bank, in pursuance of this act, and shall have as many votes in proportion to the stock he may hold, as follows, that is to say: For every share, from one to twenty, one vote; for each share, from twenty to fifty shares, one vote for two shares; from fifty to one hundred, one vote for four shares; above one hundred shares, one vote for six shares: *Provided*, That no share, or number of shares, pledged to the said bank as security for any debt due, or to become due, to it, shall be considered as conferring any right to vote at the said elections.

SEC. 14. *And be it further enacted*, That it shall be lawful for the president of the Union Bank of Alexandria, at any time before the first day of April next, with the consent of a majority in interest of the stockholders thereof, to subscribe to the said Bank of Potomac the full amount of the capital stock of the said Union Bank, and, on such subscription being made, to deliver over and transfer to the said Bank of Potomac all the books, papers, money, property, and evidences of debts, belonging to the said Union Bank, and to convey to the said Bank of Potomac the real estate belonging to said Union Bank, for passing the title of which bank in the said estate, to the said Bank of Potomac, the deed of the President of the said Union Bank shall be effectual; on which subscription, delivery, transfer, and conveyance, being made, the stockholders of the said Union

Bank shall, forthwith, become stockholders in the said Bank of Potomac, and shall be entitled to the same privileges and advantages, and the stock of the said Union Bank shall, to all intents and purposes, be considered as forming a part of the capital of the said Bank of Potomac; and the proper officers of the said Bank of Potomac shall forthwith issue to the stockholders of the said Union Bank certificates of stock in the said Bank of Potomac, at the rate of one share, or one hundred dollars of Potomac Bank stock, for every hundred dollars of the Union Bank stock so subscribed, according to the respective interests of the said stockholders in the stock so subscribed.

SEC. 15. *And be it further enacted*, That, on the said union being made as aforesaid, all contracts legally made by the said Union Bank shall, forthwith, become obligatory on the said Bank of Potomac, and all debts due by the said Union Bank on notes issued by it, or otherwise, shall become chargeable on, and payable by, the said Bank of Potomac; and the parties to such contracts, and the creditors of the said Union Bank, shall have the same remedies to enforce the performance of such contracts, and the payment of such debts, against the said Bank of Potomac, its property, and effects, as are now, by law, given to them against the said Union Bank; and that the said Bank of Potomac may, in its own name, sustain all actions and suits which may be necessary to enforce the payment of debts due to, and the performance of contracts made with, the said Union Bank, and for the recovery of any lands, tenements, goods, and chattels, belonging to, and improperly withheld from, the said Union Bank.

SEC. 16. *And be it further enacted*, That all bonds, bills, notes, or other securities for money, which, by the terms thereof, have been, or shall be, made payable at the said Union Bank, which shall fall due after the said union shall have been carried into effect, shall, from thenceforth, be considered as if the same had been made payable at the said Bank of Potomac; and that a demand of payment at the said Bank of Potomac shall, to all intents and purposes, be as effectual in law as if the same were made at the said Union Bank.

SEC. 17. *And be it further enacted*, That, from the time the said union of the said banks shall be carried into effect, the twenty-seventh section of the act of Congress, passed on the third of March, one thousand eight hundred and seventeen, entitled "An act to incorporate the subscribers to certain banks in the District of Columbia, and to prevent the circulation of the notes of unchartered associations within the said District, shall be, and the same is hereby, repealed: *Provided*, That such repeal shall not, in any way, impair the right of the said Bank of Potomac to the money, property, debts, and effects, which shall be transferred or conveyed to it, as aforesaid, nor its remedies in its own name for the recovery thereof; nor shall any suit now brought in the name of the said Union Bank, thereby abate, but the same may be carried on and prosecuted for the benefit of the said Bank of Potomac, to final judgment and execution; and that proceedings on such judgments or executions

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may be instituted and carried on in the name of the said Union Bank, against the bail, securities, and all other persons bound in such suits for the defendants therein.

SEC. 18. *And be it further enacted*, That if any stockholder or stockholders in either of the said banks, who has not heretofore assented to the union aforesaid, shall, within three months from the passing of this act, file his declaration in writing in the said Bank of Potomac, declaring himself dissatisfied with the said union, and his determination to withdraw his interest from the same; and if the said bank cannot agree with such stockholder or stockholders on the amount of such interest, and shall not forthwith pay the same, then it shall be lawful for the circuit court of the District of Columbia, at Alexandria, on the petition in writing of such stockholder or stockholders, to appoint three commissioners, whose duty it shall be to ascertain the value of the interest of such stockholder or stockholders in the bank to which he or they may belong at the time of the said union, for which purpose such commissioners shall, under the direction of the said court, have access to the books, papers, and accounts of the said banks, and on the report of the said commissioners, and such other evidences as may be laid before them, then said court shall proceed to ascertain the value of the stock of such stockholder or stockholders, and shall decree the value, so ascertained, to be paid to him or them by the said Bank of Potomac, and shall have power to enforce such decree by execution, attachment, or other legal process.

SEC. 19. *And be it further enacted*, That it shall and may be lawful for any two or more of the banks, whose charters are hereby extended, by their respective presidents and directors, with the consent of a majority in interest of their respective stockholders, to agree, under written articles of association, to unite and form one bank, by a style and name to be prescribed in such articles; and the subscribers thereto, and their legal representatives, shall, from the day fixed for that purpose in the said articles, be incorporated under the style and name set forth in the said articles, and thenceforth subject to the same rules, duties, regulations, conditions, provisions, and impositions, and be vested with the same rights, privileges, and immunities, as a body corporate, as by this act appertains to the Bank of Potomac, and are prescribed for the union of the Union Bank of Alexandria with the Bank of Potomac.

SEC. 20. *And be it further enacted*, That this act be, and the same is hereby declared to be, a public act, and that so much, and such parts of the said acts incorporating the several banks aforesaid, as may be repugnant to this act, be and the same are hereby repealed and annulled.

Approved, March 2, 1821.

An Act to regulate the location of Land Warrants, and the issuing of patents, in certain cases.

*Be it enacted, &c.*, That the holders, by assignment, of warrants issued under the acts of Congress, of the fifth March, eighteen hundred and

sixteen, the third of March, eighteen hundred and seventeen, to Canadian volunteers, may be, and hereby are, authorized to locate the said warrants, and to receive patents therefor in their own names, as had been the practice before the twenty-sixth of December, eighteen hundred and nineteen: *Provided however*, That in no case shall lands be so located until after having been exposed to public sale, shall remain unsold.

Approved, March 3, 1821.

An Act to continue in force, for a further time, the act entitled "An act for establishing trading-houses with the Indian tribes."

*Be it enacted, &c.*, That the act entitled "An act for establishing trading-houses with the Indian tribes," passed on the second day of March, one thousand eight hundred and eleven, and which was, by subsequent acts, continued in force until the first day of March, one thousand eight hundred and twenty-one, shall be, and the same is hereby, further continued in force until the third day of June, one thousand eight hundred and twenty-two, and no longer.

Approved, March 3, 1821.

An Act to amend the act entitled "An act for the gradual increase of the Navy of the United States."

*Be it enacted, &c.*, That the first section of the act entitled "An act for the gradual increase of the Navy of the United States," approved April twenty-ninth, eighteen hundred and sixteen, shall be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That, instead of the appropriation therein contained, there shall be, and is hereby, appropriated, the sum of five hundred thousand dollars per annum, for six years, from the year eighteen hundred and twenty-one, inclusive, to be applied to carry into effect the purposes of the said act.

Approved, March 3, 1821.

An Act to release French ships and vessels, entering the ports of the United States prior to the thirtieth of September, one thousand eight hundred and twenty, from the operation of the act entitled "An act to impose a new tonnage duty on French ships and vessels, and for other purposes."

*Be it enacted, &c.*, That the provisions of the act entitled "An act to impose a new tonnage duty on French ships and vessels," passed May fifteenth, one thousand eight hundred and twenty, shall not extend to, or operate upon, any French ship or vessel that shall have entered into any port within the jurisdiction of the United States prior to the thirtieth day of September, one thousand eight hundred and twenty.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury, after deducting a tonnage duty equal to that paid by every French ship or vessel which entered the ports within the jurisdiction of the United States prior to the passage and operation of the act entitled "An act to impose a new tonnage duty on French ships and vessels," passed May fifteenth, one thousand eight hundred



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and twenty, from the tonnage duty collected from French ships and vessels by virtue of the above recited act, between the first day of July, one thousand eight hundred and twenty, and the thirtieth day of September following be, and he is hereby, authorized and directed to pay and refund the remainder of such tonnage duty, free from costs and charges, to any person or persons who shall have authority to receive the same.

SEC. 3. *And be it further enacted,* That, in the event of the signature of any treaty or convention concerning the navigation or commerce between the dominions of the United States and France, the President of the United States be, and is hereby authorized, should he deem the same expedient, by proclamation, to suspend, until the end of the next session of Congress, the operation of the aforesaid act entitled "An act to impose a new tonnage duty on French ships and vessels, and for other purposes;" and, also, to suspend, as aforesaid, all other duties on French vessels, or the goods imported in the same, which may exceed the duties on American vessels and on similar goods imported in the same.

Approved, March 3, 1821.

An Act to establish a port of entry in the District of Sandusky, in the State of Ohio, and for other purposes.

*Be it enacted, &c.,* That, from and after the first day of May next, the town of Portland, in the district of Sandusky, in the State of Ohio, shall be the port of entry for that district; and that from and after that time the present port of entry established at Danbury shall cease to be the port of entry for said district.

Approved, March 3, 1821.

An Act authorizing the Secretary of the Treasury of the United States to sell and convey a certain tract of land in Northumberland county, in the State of Virginia.

*Be it enacted, &c.,* That the Secretary of the Treasury of the United States be, and he is hereby, authorized and empowered to sell and dispose of, at public or private sale, all the estate, right, title, interest, claim, and demand, of the United States of America, of, in, and to, all that certain tract or piece of land, situate in Northumberland county, in the State of Virginia, formerly owned by Presly Thornton, of the said county and State, and late of Sharp Delany, containing about two thousand five hundred acres, be the same more or less; the same being the premises which William Lewis and Thomas Robinson, by deed of indenture, executed on the second day of June, Anno Domini one thousand eight hundred and nine, granted and conveyed to the United States; the moneys arising from the said sale to be appropriated towards the payment of a debt due from the late Sharp Delany to the United States, and the residue thereof, if any there be, to be paid over to the legal representatives of the said Sharp Delany.

Approved, March 3, 1821.

An Act to authorize the Clerk of the District Court of the United States for the district of Louisiana to appoint a deputy to aid him in the discharge of the duties of his office.

*Be it enacted, &c.,* That the clerk of the district court of the United States for the district of Louisiana shall be authorized to appoint a deputy to aid him in the discharge of the duties of his office; and that the said clerk shall be, in all respects, liable for the acts of his said deputy.

Approved, March 3, 1821.

An Act to amend an act entitled "An act for regulating process in the courts of the United States."

*Be it enacted, &c.,* That in all suits and actions in any district court of the United States, in which it shall appear that the judge of such court is any ways concerned in interest, or has been of counsel for either party, or is so related to, or connected with, either party, as to render it improper for him, in his opinion, to sit on the trial of such suit or action, it shall be the duty of such judge, on application of either party, to cause the fact to be entered on the records of the court; and, also, an order that an authenticated copy thereof, with all the proceedings in such suit or action, shall be forthwith certified to the next circuit court of the district; and if there be no circuit court in such district, to the next circuit court of the State, and if there be no circuit court in such State, to the most convenient circuit court in an adjacent State; which circuit court shall, upon such record being filed with the clerk thereof, take cognizance thereof, in the like manner as if such suit or action had been originally commenced in that court, and shall proceed to hear and determine the same accordingly, and the jurisdiction of such circuit court shall extend to all such cases so removed, as were cognizable in the district court from which the same was removed.

Approved, March 3, 1821.

An Act to revive and continue in force "An act fixing the compensations of the Secretary of the Senate and Clerk of the House of Representatives, of the Clerks employed in their offices, and of the Librarian," approved the eighteenth day of April, one thousand eight hundred and eighteen.

*Be it enacted, &c.,* That the act, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, of the Clerks employed in their offices, and the Librarian," approved the eighteenth day of April, one thousand eight hundred and eighteen, be, and the same is hereby, revived and continued in force from the first day of January, one thousand eight hundred and twenty-one, until the first day of January, one thousand eight hundred and twenty-four.—Approved, March 3, 1821.

An Act to alter and establish certain Post Roads.

*Be it enacted, &c.,* That the following post roads be, and the same are hereby, discontinued, that is to say:

From Concord, in Rockingham county, by Salisbury, Andover, New Chester, Bridgewater, and Plymouth, thence by New Holderness, New Hampton, Sanbornton, and Salisbury, to Concord, and

From Farmington to Middleton, in New Hampshire.

From Carver to Wareham.

From Northampton, by Southampton, to Springfield, in Massachusetts.

From Herkimer, by Woodworth's, Columbia, by Underwood's, Litchfield, to Laghwaite.

From Vernon to Delhi.

From Little Falls, by Fairfield, Newport, and Russia, to Remsen, in New York.

From Liberty Corner, by Doughty's Mills and New Providence, to Springfield, in New Jersey.

In Morgantown, by Crab Orchard, to Kingwood, in Virginia.

From Milledgeville, to Greensborough, Georgia.

From Pocotaligo, by Hickory Hill, to Augusta, in South Carolina.

From Clinton, in Tennessee, to Pulaski, in Kentucky.

From Washington to Cincinnati; and

From Lancaster to Washington, in Ohio.

From Falmouth to Grant's Lick, on the east side of the river, in Kentucky.

From Smithton to John Graham's in Missouri.

SEC. 2. *And be it further enacted*, That the following be established post roads, that is to say :

*In Maine*.—From Brunswick, by Topsham, Lisbon, Wales, Monmouth, Leeds, Wayne, and Fayette, to Jay; and thence by Livermore, Turner, and Durham, to Brunswick.

From Green, by Leeds and Wayne, to Winthrop.

From Bangor, by Levant, Corinth, New Charlestown, Atkinson, Sebec, Brownsville, Williamsburg, Foxcroft, Guilford, and Sangerville, to Bangor.

From Warsaw, by Hartland and St. Albin's, to Palmyra.

From Bethel, by Gilead, Shelburne, Durand, Kilkenny, and Jefferson, to Lancaster, in New Hampshire.

*In New Hampshire*.—From Concord, in Rockingham county, by the McCrillis tavern, in Canterbury, Northfield meeting-house, Sanbornton, Smith's village on the turnpike, across the river near Pine Hill, and Bridgewater, to Plymouth.

From Smith's village on the turnpike, by New Hampton meeting-house, and the paper mill in Holderness, to Plymouth.

From Concord, by Boscowan, Salisbury village, Andover, New Chester, Bristol, and the Mayhew turnpike, to Rumney.

From Rochester, by Chesnut Hill, in Farmington, to Middleton.

From the post route from Centre Harbor to Plymouth, and the post route from Portsmouth, by Meredith, and New Hampton, to Plymouth, shall be by the post office in Holderness.

*In Massachusetts*.—From Greenfield, by Bernardstown, Northfield, Warwick, Orange, New

Salem, Shutesbury, Leverett, Sunderland, and Montague, to Greenfield.

From Richmond to West Stockbridge.

From Northampton, by East Hampton, South Hampton, Westfield, Southwick, and East Granby, to Hartford, in Connecticut.

From Worcester to Croton.

From Boston, by a turnpike road, to Taunton; and thence by Wellington, Dighton, Swanzev, Warren, Bristol, Portsmouth, and Middleton, to Newport, in Rhode Island.

From South Hadley, by Granby, to Belcher-town.

*In Connecticut*.—From Mansfield to Willington.

From Stafford, by Union, to Woodstock.

From Brooklyn, by South Killingly, to Thompson.

From Bridgeport, by Long Hill, Trumbull, Levi Edwards's, in Huntington, Newtown, and Brookfield, to New Milford.

*In New York*.—From Utica, by Whitesborough, Floyd, Steuben, and Western, to Rome.

From Cayuga to Montezuma.

From Turin, by Harrisburg, Copenhagen, Tylersville, Pinkney, and Rodman, to Adams.

From Newburgh, by Middletown, Marlborough, Milton, and New Paltz, to Poughkeepsie.

From Upper Red Hook Landing, to the present post road from New York to Albany.

From Watertown, by Le Raysville, to Antwerp.

From Mooresville, by Bovina, in Delaware county, to Delhi.

From Bergen, by Riga, and East Riga, to Rochesterville.

From Ellicottville, by Little Valley, Conewongo Creek, and Gerry, to Mayville.

From Caledonia to Riga.

From Whitehall, in Washington county, by Putnam, to Ticonderoga.

From Southold, in Suffolk, to the village of Oysterponds.

From Utica, in the county of Oneida, to Bainbridge, in the county of Chenango, by New Hartford, Paris Furnace, Bridgewater, Brookfield, Columbus, New Berlin, Norwich, and Guilford.

From Lisle in the county of Broome, through the towns of Berkshire and Carolina, on the Susquehanna, and Bath turnpike road, to Ithica, in the county of Tompkins.

From Manlius, by Oran, Delhi, Fabius, Pompey, and thence to Manlius.

From Utica, by Rome, to Montezuma, and thence to Rochester, upon and near the Great Canal.

From Bennington, Vermont, by White Creek, Cambridge, Easton, and Greenwich, to Saratoga Springs, New York.

From Richfield, by Peltries, in Columbia, by Underwood's, in Litchfield, to Utica.

From Peltries, in Columbia, by Elie Palmer's, to Herkimer.

From Little Falls, Herkimer county, by Eaton's Bush, Middleville, Newport, Naham Daniel's, Russia post office, to Trenton, with a side mail from Middleville to Fairfield post office.

From Canandaigua, in the State of New York,

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by Manchester, to Palmyra; from thence by South Williamson and Williamson, to Pultneyville.

*In New Jersey.*—From Chester to Flanders.

From Liberty Corner to Somerville.

From Trenton, by Croswick's tavern, Rickle's town, Julius, and Army's, to New Egypt.

*In Pennsylvania.*—From Easton, by Stockertown, to Roscommon.

From Chester, by Village Green, Wilcox's mills, Concord meeting-house, and Dilworthtown, to West Chester.

From Clark's Ferry, by Landisburg, Douglass's mills, and Concord, to Fannellsburg.

From Somerset, by Connelville, Union, Smithfield, Germantown, and Geneva, to Morgantown, in Virginia.

From Hanover, by Berlin, to Dillstown.

From Lambpeter square to Cochransville.

From Gettysburg, by Petersburg, and Dillstown, to Harrisburg.

From Berwick, on the Tioga and Susquehanna turnpike, to Meansville.

From Lancaster, by New London cross roads, Newark, and Christiana bridge, to New Castle, in Delaware.

From Gettysburg, by Lughtersburg, to Hagerstown, Maryland.

From Leditz, in Lancaster county, by Elizabeth furnace and Shueffleston, to Lebanon.

From Beavertown, Jeffriestown and Nobles-town, to Cannonsburg.

*In Delaware.*—From Milford to the village of Milton, a new route.

*In Maryland.*—That the mail route from Easton to Princess Anne shall pass over Dover Bridge, and by New Market and Cambridge; the route from Easton, by the Trappe, to Cambridge, shall nevertheless be continued.

From Easton to the Trappe, in Talbot county.

From Harford to Michael's store.

*In Virginia.*—From Kingwood, by Crab Orchard, Hagan's store, to Smithfield, in Pennsylvania.

From Lewis courthouse, by French Creek settlement, Flatwood's, and Elk river, to Nicholas courthouse.

From Woodring's mill, in Preston county, by Goff's ferry, on Cheat river, to Leading creek, in Randolph county.

From the mouth of Fishing creek, on the Ohio, river, by Buffalo, Barnes's mills, Pritchett's settlement, and Smithfield, to Kingwood.

From Springfield to Romney, in Hampshire county.

From Morgantown, by Jackson's iron works, Carlisle's furnace, to Sandy creek glades.

From Charlottesville, by Warren, to Buckingham courthouse.

From Culpeper courthouse, by State mills, to Woodville.

From Staunton, by Little river, to the Panther Gap.

From Jacksonville, in Wood county, by Murphy's settlement, to Lewis courthouse.

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That the mail route from Wheeling pass by Sisterville and the mouth of Fishing creek.

That the mail route from Warm springs, in Bath county, by Anthony's creek, to Lewisburg, shall, in returning, pass by Frankford, Locust creek, Barnes's mill, Cackley's, Bradshaw's, and Gatewood, to the Warm Springs.

*In North Carolina.*—From Salisbury to Fayetteville.

From Wilkesborough, by Mock's Old Fields, Salisbury, Skeen's ferry, Lawrenceville, Wadesborough, and Sneedsborough, to Cheraw, formerly Chatham, in South Carolina.

From Charlotte, by Chester courthouse, and Newberry courthouse, to Edgefield courthouse, in South Carolina.

That the mail route from Fayetteville to Wilmington pass by David Wright's store, in Duplin county.

From Salisbury, by Fulton, to Huntsville.

*In South Carolina.*—From Columbia, by Ashville and Warm Springs, in North Carolina, to Lexington, in Kentucky.

From Coosawatchie, by Robertsville and King creek, to Augusta.

*In Georgia.*—From Monticello, by Monroe, in Walton county, and Lawrenceville, in Gwinnet county, to Hall courthouse.

From Jefferson to Fairfield, in Camden county.

From Carnesville, by Habersham courthouse, to Rabun courthouse.

From Powelton, in Hancock county, by Greensborough, to Madison, in Morgan county.

From Carnesville, by Bushville, to Hall courthouse.

*In Kentucky.*—From Franklin to Nashville, in Tennessee.

From Eddyville, by Iron Banks, to New Madrid, in Missouri.

That the post route from Burkesville to Monticello shall pass by Robert Poage's in Stockton's Valley.

That the post route from Columbia to Glasgow shall pass by Edmonton, in Barren county.

From Scottsville to Cairo, in Tennessee.

From Falmouth, in Pendleton county, passing the three forks of Grassy creek and Gains's, to Burlington, in Boone county.

From Bowling Green, by Litchfield and Hardingsburg, to Corydon, in Indiana.

*In Tennessee.*—From Clinton to Burkesville, in Kentucky.

From Washington, in Rhea county, by Hamilton courthouse and the new turnpike road, to Morgantown, at the mouth of Sequatchee, by Marion courthouse and Jackson courthouse, to Huntsville, in Alabama.

From McMinville, by Shelby, to Columbia.

From Sparta, by Cookeville, Gainesborough, and Meigsville, to Tompkinsville, in Kentucky.

From Kingston, by Washington, to Huntsville, in Alabama.

That the route from Springfield to Russellville, in Kentucky, shall pass Fort's mills, on Red river.

From Murfreesborough to Statesville.

From Vernon, by Perry courthouse, to Reynoldsburg.

*In Ohio.*—From Lebanon, by Monroe, to Hamilton.

From Washington, in Pennsylvania, by Wellsburg, in Virginia, Steubenville, New Salem, New Philadelphia, Wooster, and Norwalk, to Lower Sandusky.

From Canton, in Stark county, by New Portage, Norton, and Wadsworth, to Medina, in Medina county.

From Lancaster, by Circleville, to Chillicothe.

From Granville, in Licking county, by Worthington, to Dublin, in Franklin county.

From Urbanna, by Troy, to Granville, in Dark county.

From Dover, in Tuscarawas county, by Shanesville and Berlin, to Millersburg, in Coshocton county.

From Dresden, in the county of Muskingum, to Mansfield, in the county of Richland, by the way of West Carlisle, in Coshocton county.

From Aurelius, by Duck creek salt works, in Morgan county, by Senecaville, to Guernsey salt works, and to Washington, Guernsey county.

*In Indiana.*—From Brownstown to Indianapolis.

From Vernon to Indianapolis.

From Connersville to Indianapolis.

From Lawrenceburgh to Aurora, Hanover, and the Rising Sun, to Versailles; and to return by the way of Vaughan's, in Manchester township.

From Richmond, by Salisbury and Centreville, to Indianapolis.

From Brookville to Indianapolis.

*In Illinois.*—From Golconda, by Franklin courthouse, and Hinds's, to Vandalia.

From Golconda to Belgrade.

From Shawneetown to Golconda.

The mail from Vincennes, Indiana, to St. Louis, Missouri, shall pass by Vandalia.

From Vandalia, by the seats of justice of such counties as may be established by the Legislature prior to the next session of Congress, north of Madison county, to Edwardsville.

From Fairfield, by John G. Fitch's, to Vandalia.

From Palestine to Vandalia.

The mail from Golconda, by Bloomfield, to Jonesborough, to pass by Vienna.

*In Mississippi.*—From Columbia, by Fort Alford's, to Monticello.

From Green courthouse, by New Augusta and Monroe, to Covington courthouse.

*In Alabama.*—From Blakeley to Mobile Point.

From Fort Hawkins, by Fort Gaines and Butler courthouse, to Conecuh courthouse.

*In Missouri.*—From Shawneetown, by Rood's, Jonesborough, in Illinois, and Bainbridge, in Cape Girardeau county, to Jackson.

From St. Charles, by James Journey's, John Biven's, Isaac Vanbibber's, John Grayum's, and Augustus Thrall's, to Franklin.

From Franklin, by the mouth of Arrow Rock and Mount Vernon, to Fort Osage.

From St. Genevieve, by the Saline, Amos Bird's, John F. Henry's, and Bainbridge, to Cape Girardeau.

From Franklin to Boonsville.

From Smithton to Augusta Thrall's.

From Alton, by the house of Levi Roberts, John Shaw, and Leonard Ross, to Louisianaville, in Missouri.

Approved, March 3, 1821.

An Act to authorize the building of Lighthouses therein mentioned, and for other purposes.

*Be it enacted, &c.,* That the Secretary of the Treasury be, and he is hereby, authorized and empowered to provide, by contract, for building light-houses and placing buoys on the following sites and shoals, to wit: five lighthouses, one on Cross Island, near Machias; one in the harbor of Boothbay, at such place as the Secretary of the Treasury shall designate; and one on Pond Island, at the mouth of Kennebeck river; one on the Stratford Point, in Connecticut; and one on Throg's Neck, in New York; and on the shoals of Nantucket and the Vineyard Sound a number of buoys, not exceeding ten, in the State of Massachusetts. A lighthouse at the mouth of Oswego river, at such place as shall be designated by the Secretary of the Treasury, in the State of New York. And two buoys, one on James's Ledge, and one on the rock called Old Gay, and a spindle on the Brothers, in the State of Rhode Island.

SEC. 2. *And be it further enacted,* That there be appropriated, out of any money in the Treasury not otherwise appropriated, the following sums of money, to wit: For building three lighthouses, one on Cross Island, near Machias; one in the harbor of Boothbay; and one on Pond Island, ten thousand five hundred dollars; for building the light-houses on Stratford Point, and Throg's Neck, four thousand dollars; for a lighthouse at the mouth of Oswego river, three thousand five hundred dollars: for ten buoys on Nantucket shoals, and the Vineyard Sound, one thousand five hundred dollars: for two buoys and a spindle for the rocks called James's Ledge, Old Gay, and the Brothers, four hundred and fifty dollars: and for placing buoys, and anchors with buoys, in the Altamaha river, between the port of Darien, and Doboy Sound, in the State of Georgia, a sum not exceeding one thousand five hundred dollars.

SEC. 3. *And be it further enacted,* That no lighthouse shall be built on any site previous to the session of jurisdiction over the same to the United States.

SEC. 4. *And be it further enacted,* That the President of the United States be and he is hereby authorized and requested to cause such an examination or survey of the Isles of Shoals, on the coast of New Hampshire and Maine, to be made, by proper and intelligent persons, as may be requisite to ascertain the expediency and practicability of repairing the sea-wall at Smutty Nose Island, and building a sea-wall between said island and Cedar Island. And that the President be further requested, in like manner, to ascertain the expediency of erecting a stone pier on Sunken Rocks, in the harbor of Portsmouth, in the State of New Hampshire. And the President of the United States

## Resolutions.

is hereby authorized to cause the sea-wall aforesaid to be repaired, and the pier aforesaid to be erected, by contract, under the direction of the collector of the district of Portsmouth, if, on the report of such persons, he shall deem it necessary. And the President is further requested to communicate to Congress, at their next session, the result of so much of the examination and survey, as relates to the expediency and practicability of building the sea-wall aforesaid: *Provided*, That no money shall be expended in erecting the pier aforesaid, until the jurisdiction of the site thereof shall be ceded by the State of New Hampshire to the United States.

SEC. 5. *And be it further enacted*, That a sum, not exceeding two thousand five hundred dollars, is hereby appropriated for the purposes aforesaid; to be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 3, 1821.

An Act to amend the act, entitled "An act to provide for taking the fourth census or enumeration of the inhabitants of the United States, and for other purposes."

*Be it enacted, &c.*, That, instead of the time prescribed in the above-recited act, in which the marshals and their assistants should perform the various duties assigned them by the said act, the same is hereby enlarged to the first day of September next.

Approved, March 3, 1821.

An Act authorizing the President of the United States to remove the Land Office in the district of Lawrence county, in the Territory of Arkansas.

*Be it enacted, &c.*, That so much of the act, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," as requires that the land office for the district of Lawrence county shall be established at the seat of justice in said county, shall be and the same is hereby repealed; and the President of the United States is hereby authorized to remove and establish said office at any suitable place within the said district.

Approved, March 2, 1821.

An Act to alter the times of holding the District Court in the Northern District of New York.

*Be it enacted, &c.*, That the district court of the United States of America for the northern district of New York, directed by law to be holden at Utica, shall hereafter be holden at the same place on the last Tuesday of August, instead of the third Tuesday of May, in each year; and that the court directed by law to be holden at Albany, on the second Tuesday of November, shall, instead thereof, hereafter be holden at the same place on the last Tuesday of January in each year.

SEC. 2. *And be it further enacted*, That all ac-

tions, suits, process, proceedings, commenced, or to be commenced, or now pending in said district court, and liable to be discontinued, or suffer prejudice, from the foregoing alterations, may be returned to, and shall be continued to, the district court to be holden in pursuance of this act, in such manner as that the same shall suffer no discontinuance or prejudice by virtue of this act.

Approved, March 2, 1821.

## RESOLUTIONS.

Resolution providing for the admission of Missouri into the Union on a certain condition.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen, of either of the States in this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into the Union shall be considered as complete.

Approved, March 2, 1821.

Resolution providing for jails in certain cases, for the safe custody of persons committed under the authority of the United States.

*Resolved, &c.*, That where any State or States, having complied with the recommendation of Congress, in the resolution of the twenty-third day of September, one thousand seven hundred and eighty-nine, shall have withdrawn, or shall hereafter withdraw, either in whole or in part, the use of their jails, for prisoners committed under the authority of the United States, the marshal in such State or States, under the direction of the judge of the district, shall be, and hereby is, authorized and required to hire a convenient place to serve as a temporary jail, and to make the necessary provision for the safe-keeping of prisoners committed under the authority of the United States, until permanent provision shall be made by law for that purpose; and the said marshal shall be allowed his reasonable expenses, incurred

*Resolutions.*

for the above purposes, to be paid out of the Treasury of the United States.

Approved, March 3, 1821.

Resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe.

*Resolved, &c.,* That the President of the United

States be authorized to cause such number of astronomical observations to be made, by methods which may, in his judgment, be best adapted to insure a correct determination of the longitude of the Capitol, in the City of Washington, from Greenwich, or some other known meridian in Europe, and that the data, with accurate calculations or statements, founded thereon, be laid before Congress at their next session.

Approved, March 3, 1821.